

United States  
1 1270  
Circuit Court of Appeals

For the Ninth Circuit.

DANIEL DE LA NUX, GEORGE F. DE LA  
NUX, and LAHAPA DE LA NUX,  
Plaintiffs in Error,

vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

Transcript of Record.

Upon Writ of Error to the Supreme Court of the  
Territory of Hawaii.

FILED

SEP 7 - 1920

F. D. MONCKTON,  
CLERK.



United States  
Circuit Court of Appeals  
For the Ninth Circuit.

---

DANIEL DE LA NUX, GEORGE F. DE LA  
NUX, and LAHAPA DE LA NUX,  
Plaintiffs in Error,  
vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

---

Transcript of Record.

---

Upon Writ of Error to the Supreme Court of the  
Territory of Hawaii.

---



# INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

---

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Amended Praecipe for Transcript of Record on Writ of Error Returnable to United States Circuit Court of Appeals.....	416
Answer .....	13
Assignments of Error on Return to Writ of Error Returnable to United States Circuit Court of Appeals for the Ninth Circuit....	403
Bill of Complaint.....	1
Certificate of Clerk of the Supreme Court of the Territory of Hawaii to Transcript of Rec- ord and Return to the Writ of Error.....	420
Citation on Writ of Error Returnable to United States Circuit Court of Appeals.....	414
Decision .....	30
Decree .....	36
Decree (Supreme Court, Territory of Hawaii).	395
<b>EXHIBITS:</b>	
Exhibit "A"—Deed of Conveyance, Dated June 10, 1905, Rebecca Houghtailing to George De La Nux, Jr., and Daniel De La Nux .....	9

	Index.	Page
EXHIBITS—Continued:		
Plaintiff's Exhibit "F"—Deed Dated June 10, 1905, Rebecca Houghtailing to George De La Nux, Jr., and Daniel De La Nux .....		368
Plaintiff's Exhibit "I"—Letter Dated Aiea, 1/26/16, George F. De La Nux to Mr. Larnach .....		370
Plaintiff's Exhibit "J"—Letter Dated Aiea, 1/26/16, George F. De La Nux to Rebecca Houghtailing.....		371
Plaintiff's Exhibit "K"—Letter Dated February 1, 1916, George F. De La Nux to Mr. Breckons .....		373
Plaintiff's Exhibit "L"—Unsigned Letter Dated February 26, 1916, to George De La Nux .....		374
Plaintiff's Exhibit "M"—Bill of Complaint in Cause Entitled Rebecca Houghtailing vs. George De La Nux and Daniel De La Nux .....		375
Defendants' Exhibit No. 1—Letter Dated April 3, 1917, Rebecca Houghtailing to Mr. Breckons .....		381
Defendants' Exhibit No. 2—Power of Attorney from Rebecca Houghtailing to George F. De La Nux, Dated February 14, 1917 .....		382
Judgment .....		36
Minutes of Court—October 6, 1919—Order Dismissing Appeal .....		396

Index.

Page

Minutes of Court—April 20, 1920—Hearing... 397

Minutes of Court—May 5, 1920—Hearing (Re-  
sumed) ..... 399

Opinion (Supreme Court, Territory of Hawaii). 386

Order Allowing Writ of Error Returnable to  
United States Circuit Court of Appeals and  
Supersedeas ..... 406

Order Appointing Guardian At Litem..... 12

Order Granting Motion to Dismiss Appeal and  
Dismissing Appeal ..... 385

Petition for Writ of Error and Supersedeas Re-  
turnable to United States Circuit Court of  
Appeals for the Ninth Circuit..... 400

Replication ..... 25

Stipulation in re Answer..... 28

Stipulation that Motion to Dismiss Appeal be  
Granted on Grounds Alleged in Motion.... 383

Supersedeas and Cost Bond on Writ of Error  
Returnable to United States Circuit Court  
of Appeals ..... 408

TESTIMONY ON BEHALF OF PETI-  
TIONER:

COCKETT, Mrs. MOLLIE..... 130  
    Cross-examination ..... 138

CULLEN, Mrs. NANCY..... 157  
    Cross-examination ..... 160

DE LA NUX, CHARLEY ..... 183  
    Cross-examination ..... 192  
    Redirect Examination ..... 196

DE LA NUX, CHARLEY (Recalled).... 356

	Index.	Page
<b>TESTIMONY ON BEHALF OF PETI-</b>		
<b>TIONER—Continued:</b>		
DE LA NUX, Mrs. CHARLES A. . . . .		198
Cross-examination . . . . .		201
DE LA NUX, HENRY . . . . .		169
Cross-examination . . . . .		178
Redirect Examination . . . . .		182
Recalled . . . . .		355
HOUGHTAILING, Mrs. REBECCA . . . .		74
Cross-examination . . . . .		102
Redirect Examination . . . . .		125
Recross-examination . . . . .		130
LARNACH, Judge A. D. . . . .		357
MOSES, Mrs. MANUEL . . . . .		351
Cross-examination . . . . .		354
ROBELLO, Mrs. AGNES . . . . .		163
Cross-examination . . . . .		165
ROBINSON, J. L. P. . . . .		60
Cross-examination . . . . .		71
STEERE, F. E. . . . .		44
Cross-examination . . . . .		56
Redirect Examination . . . . .		58
<b>TESTIMONY ON BEHALF OF RESPOND-</b>		
<b>ENTS:</b>		
ARNOLD, CHARLES N. . . . .		241
Cross-examination . . . . .		243
Redirect Examination . . . . .		243
CORREA, A. G. . . . .		142
Cross-examination . . . . .		145
DE LA NUX, GEORGE . . . . .		293



Index.

Page

TESTIMONY ON BEHALF OF RESPONDENTS—Continued:

Cross-examination by the Court.....	324
Cross-examination by Mr. Withington.	327
Recalled in Surrebuttal.....	367
DE LA NUX, Mrs. LAHAPA.....	268
Cross-examination .....	281
Recalled in Surrebuttal .....	366
HAEHO, Mrs. KAAE .....	212
Recalled .....	252
Cross-examination .....	256
HENRY, Mrs. EDWARD CHARLES....	214
HOLAPU, DANIEL .....	264
Cross-examination .....	265
HOUGHTAILING, Mrs. REBECCA ....	205
Recalled .....	246
Cross-examination .....	251
KAUHANE, Mrs. LUCY .....	218
Cross-examination .....	224
MAKANAI, JESSE H. ....	244
RICHARDS, GEORGE ANSON .....	203
Recalled .....	209
ROBINSON, LAWRENCE .....	237
WESTERBEE, RICHARD .....	237
Cross-examination .....	239
WHITNEY, Judge WM. L. ....	230
Cross-examination .....	234
Writ of Error to the Supreme Court of the Territory of Hawaii .....	411



In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

\$2.00 Stamp.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE  
LA NUX,  
Defendants.

**Bill of Complaint.**

To the Honorable the Presiding Judge of the Circuit  
Court of the First Judicial Circuit, Territory of  
Hawaii, Sitting at Chambers, in Equity:

Your orator, Rebecca Houghtailing, appearing  
herein through and by Frederick E. Steere, the plain-  
tiff above named, brings this her bill of complaint  
against the defendants above named, and thereupon  
your orator so appearing complains and alleges:

I.

That heretofore and on, to wit, the 12th day of  
April, A. D. 1916, it was duly and regularly adjudged  
by the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii, in a proceeding theretofore in-  
stituted for that purpose, that it was necessary that  
a guardian be appointed [1\*] over the person and  
estate of your orator, Rebecca Houghtailing, and

---

\*Page-number appearing at foot of page of original certified Transcript  
of Record.

that thereupon the said Frederick E. Steere was by said Court appointed guardian of the person and estate of the said Rebecca Houghtailing, and that thereupon letters of guardianship duly and regularly issued to the said Frederick E. Steere, who was duly and regularly appointed guardian of the person and estate of the said Rebecca Houghtailing.

## II.

That thereafter and on, to wit, the 19th day of April, A. D. 1917, upon application duly and regularly made, the said Circuit Court of the First Judicial Circuit, Territory of Hawaii, did order and direct that the said Frederick E. Steere, as such guardian institute for and on behalf of your said orator a suit to set aside what purports to be a conveyance of certain property from the said Rebecca Houghtailing to George De La Nux Jr., and Daniel De La Nux, the said conveyance being hereinafter more fully referred to.

## III.

That the said Frederick E. Steere duly qualified as such guardian, and has continued to act as such guardian, and still is such guardian.

## IV.

That the said Rebecca Houghtailing has been all of her lifetime a resident of the Territory of Hawaii, and was and still is the owner of a very considerable amount of property, both real and personal, situated and located within the Territory of Hawaii, and that included within the property thus owned by her is certain real estate known as her homestead, which is situated and located on Kamehameha IV Road, in

Kalihi, Honolulu, Island of Oahu, Territory of Hawaii. [2]

V.

That the said Rebecca Houghtailing has a number of children and grandchildren residing within the said Territory of Hawaii, two of the said grandchildren being the defendants herein.

VI.

That the said Rebecca Houghtailing is an Hawaiian woman aged about 56 years; that she is without any knowledge whatsoever of business or business affairs; that at times she is unable to properly care for or manage her property interests; that for more than twenty years last past she has been addicted to over-indulgence in alcoholic liquors; that the only time within the last twenty years when the habit mentioned has not been indulged in has been when alcoholic liquors have not been obtainable by her; and that in consequence of her lack of knowledge of business and business affairs, and the habit hereinbefore referred to, it became necessary to have the said Frederick E. Steere appointed as guardian of her person and estate.

VII.

That some time prior to the 10th day of June, A. D. 1905, the son of your orator, one George F. De La Nux, who is the father of the said defendants, full well knowing the lack of knowledge of the said Rebecca Houghtailing of business and business affairs, and full well knowing the habit of the said Rebecca Houghtailing of over-indulgence in alcoholic liquors, and full well knowing that, owing to said lack of

knowledge and said habit, the said Rebecca Houghtailing would not be able to comprehend fully any action taken by her at a time when she had indulged in the use of intoxicating liquors to excess, impertuned the said Rebecca Houghtailing to place the title to the homestead [3] hereinbefore referred to in the said defendants; that the said Rebecca Houghtailing being then and there desirous of pleasing the said George F. De La Nux, and being likewise desirous of vesting in these two grandchildren the title to the said homestead, reserving unto herself a life interest therein, did, in the year 1905, make known to the said George F. De La Nux her desire to so vest the title to said property; and that thereupon directions were given a scrivener to draft the deed necessary to carry out the said intention.

#### VIII.

That thereafter, and on the 10th day of June, A. D. 1905, and at a time while the said Rebecca Houghtailing was under the influence of liquor, there was presented to her for signature a deed of conveyance, a copy of which is hereto attached, incorporated herein by reference, and marked Exhibit "A." That upon the presentation of the said deed, the said Rebecca Houghtailing, in the presence of the father of the said defendants, the said George F. De La Nux, executed the same. That at the time of the execution of the same, the said Rebecca Houghtailing relied upon the accuracy of the scrivener employed, and upon the good faith of the said George F. De La Nux; that at the time of the execution of the said deed, the said Rebecca Houghtailing, by

reason of her lack of knowledge of business and business affairs, and by reason of her over-indulgence in intoxicating liquors, with both of which the said George F. De La Nux was then and there well acquainted, was unable to comprehend the terms and conditions of the deed of conveyance which she then and there executed, but believed fully that the same constituted only a conveyance by her of the said homestead to her said grandchildren, reserving unto herself a life interest therein, and that at the time of the execution thereof it was only the intention of the said Rebecca Houghtailing to make a conveyance of the said homestead to the said [4] grandchildren, but reserving unto herself a life interest therein.

### IX.

That notwithstanding the intention of the said Rebecca Houghtailing, as hereinbefore set forth, to make unto the said defendants a conveyance only of the said homestead, reserving unto herself a life interest therein, the said deed so executed by her did in truth and in fact contain a clause reciting that in addition to the said homestead the said Rebecca Houghtailing did further convey "also all and singular My Real and Personal property by me possessed and wheresoever situate," thus transferring in terms unto the said defendants not only the said homestead hereinbefore referred to, but all of the other property both real and personal, owned and possessed by the said Rebecca Houghtailing at the time of the execution of said deed.

## X.

That the insertion of the said provision in said deed conveying property other than the said homestead was without the consent or knowledge, and was against the will of the said Rebecca Houghtailing, and was at the instigation, suggestion and connivance of the said George F. De La Nux, and was inserted therein with intent on the part of him, the said George F. De La Nux to deceive and defraud the said Rebecca Houghtailing, and with intent on the part of him, the said George F. De La Nux to have the said deed executed at a time when her condition, owing to the excessive use of intoxicating liquors, combined with her lack of knowledge of business and business affairs, would not permit her to appreciate the full force and effect of the instrument so to be executed by her; and that said instrument was executed at a time when the said Rebecca Houghtailing was under the influence of intoxicating liquors, and that in having the same executed at the said time, the said George F. De La Nux did intend to deceive and defraud the said Rebecca Houghtailing, [5] and did deceive and defraud her.

## XI.

That at the time of the execution of the said instrument the said George F. De La Nux knew that it did not express the intent of the said Rebecca Houghtailing; knew that the said Rebecca Houghtailing did not intend to convey to the defendants property other than the homestead mentioned, and with the knowledge above set forth, assured the said Rebecca Houghtailing that *the said* did conveyed to



the said defendants nothing save the said homestead.

### XII.

That thereafter, and upon discovery of the wrongful insertion, in the said deed of the provision above referred to, and of the fraud and deceit which had been practiced upon her, the said Rebecca Houghtailing made demand upon the said George F. De La Nux that steps be taken to have the said deed corrected and reformed, in order that the same should carry out the intent of the said Rebecca Houghtailing, but that the said George F. De La Nux refused so to do, basing his refusal, amongst other grounds, on the fact that the defendants herein were minors.

### XIII.

That the said defendants herein are minors, the said George F. De La Nux, Jr., being of the age of about 15 years, and the said Daniel De La Nux being of the age of about 13 years.

### XIV.

That by reason of the premises aforesaid the said [6] Rebecca Houghtailing is unable to dispose, during her lifetime through her guardian, of property other than the said homestead, all of which said property, both real and personal, is owned by her, and is prevented from making transfers of personal property, or proper conveyances of real estate other than the said homestead.

### XV.

That the said Rebecca Houghtailing has no adequate remedy at law.

IN CONSIDERATION WHEREOF, and inasmuch as the said Rebecca Houghtailing has no suffi-

cient remedy at law, she, through her said guardian, prays as follows:

FIRST. That an order of the Court be entered, appointing some person to act as guardian *ad litem* for the said defendants, suggesting in this behalf that the father of said defendants, to wit, the said George F. De La Nux, be appointed such guardian *ad litem*.

SECOND. That the process of this Honorable Court may issue, according to law, to be served on the said guardian *ad litem*, requiring the said defendants, and each of them, to appear herein within the time by law provided, and answer the several allegations in this Bill of Complaint contained; answer under oath, however, being in that regard hereby expressly waived.

THIRD. That upon the final hearing herein, it may be decreed that the deed herein incorporated may be reformed by striking therefrom the words: "And also all and singular my real and personal property by me possessed *an* wheresoever sitnate."

FOURTH. That the said Rebecca Houghtailing may have such other and further relief in the premises as to this Honorable Court may seem meet and proper, and which equity may require. [7]

REBECCA HOUGHTAILING,  
Plaintiff,  
By FREDERICK E. STEERE,  
Guardian.

Let process issue.

[Seal]

C. W. ASHFORD,  
Judge of the First Circuit.

Territory of Hawaii,

City and County of Honolulu,—ss.

Frederick E. Steere, being first duly sworn according to law, deposes and says that he has read the above and foregoing bill of complaint, filed by him as guardian of Rebecca Houghtailing, and knows the contents thereof, and that the facts therein stated are true.

FREDERICK E. STEERE.

Subscribed and sworn to before me this 22d day of May, A. D. 1917.

[Seal]

MILLIE F. RAWLINS,

Notary Public, First Judicial Circuit, Territory of Hawaii.

[Endorsements]: Circuit Court, First Circuit, Territory of Hawaii. At Chambers—In Equity. Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, vs. George De La Nux, Jr., and Daniel De La Nux. Bill for Reformation of Deed. Bill of Complaint. Filed at 8:30 o'clock A. M. May 24th, 1917. B. N. Kahalepuna, Clerk. A. D. Larnach, R. W. Breckons, Attorneys for Plaintiff.

Filed at 8:30 o'clock A. M. May 24, 1917. B. N. Kahalepuna, Clerk. [8]

**Exhibit "A."**

Know all men by these presents: That I, Rebecca Houghtailing (née Mrs. P. C. A. De La Nux) of Honolulu, Island of Oahu, Territory of Hawaii, for and in consideration of my Love and Affection for

my Grand Sons George De La Nux Jr. and Daniel De La Nux, and in further consideration of the sum of One Dollar (\$1.00) to me in hand paid by my said Grand Sons George De La Nux and Daniel De La Nux, the receipt whereof is hereby acknowledged, do hereby bargain, grant, sell, Transfer and Convey unto my said Grand Sons George De La Nux and Daniel De La Nux, all and singular that certain piece or parcel of Land situate on Kamehameha IV Road, Kalihi, Honolulu, Island of Oahu, Territory of Hawaii, and being the same now occupied by me as my Home, together with the improvements thereon.

And also all and singular My Real and Personal property by me possessed and wheresoever situate.

To have and to Hold the same unto my said Grand Sons George De La Nux and Daniel De La Nux, their heirs and assigns, together with all and singular the rights, privileges, rents and income thereof, Tenements, Hereditaments and Appurtenances Forever, Reserving however unto me, the said Rebecca Houghtailing a Life Estate therein.

In Witness Whereof I the said Rebecca Houghtailing have hereunto set my hand and seal this 10th day of June, A. D. 1905.

REBECCA HOUGHTAILING.

In presence of:

WILLIAM SAVIDGE. [9]

Territory of Hawaii,  
County of Oahu,—ss.

On this 8th day of November, A. D. 1905, personally appeared before me Rebecca Houghtailing (W).

known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

WILLIAM SAVIDGE,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

Entered of record this 2d day of July, A. D. 1910,  
at 9:18 A. M., and compared.

[Seal]

CHAS. H. MERRIAM,  
Registrar of Conveyances.

[Endorsements]: Circuit Court, First Circuit,  
Territory of Hawaii. At Chambers—In Equity.  
Rebecca Houghtailing, Through and by Frederick  
E. Steere, her Guardian, vs. George De La Nux, Jr.  
and Daniel De La Nux. Bill for Reformation of  
Deed. Bill of Complaint. Filed at 8:30 o'clock  
A. M., May 24th, 1917. B. N. Kahalepuna, Clerk.  
A. D. Larnach, R. W. Breckons, Attorneys for  
Plaintiff. [10]

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE LA  
NUX,

Defendants.

**Order Appointing Guardian Ad Litem.**

On presentation of the bill of complaint in the above-entitled cause, and it appearing to me therefrom that the defendants herein are infants, and that the appointment of a guardian *ad litem* is necessary; and it further appearing to me that the father of said infants, George F. De La Nux, is a proper person to represent said defendants in said suit:

IT IS NOW ORDERED, ADJUDGED AND DECREED, that George F. De La Nux be, and he is hereby, appointed guardian *ad litem* of George De La Nux, Jr., and Daniel De La Nux, defendants in the above-entitled cause; and that service of process herein be made upon the said George F. De La Nux, guardian *ad litem*, in and also upon each of said minor defendants.

[Seal]

C. W. ASHFORD,

First Judge of the Circuit Court of the First Judicial  
Circuit, Territory of Hawaii.

Amended by the Court Sept. 5/17.

J. C. CULLEN,  
Clerk.

[Endorsements]: Circuit Court, First Circuit, Territory of Hawaii. Rebecca Houghtailing vs. George De La Nux, Jr., and Daniel De La Nux. Order. Filed at 8:30 o'clock A. M., May 24th, 1917. B. N. Kahalepuna, Clerk. A. D. Larnach, R. W. Breckons, Attorneys for Plaintiff. [11]

---

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE LA  
NUX,

Defendants.

**Answer.**

Now come the defendants, George De La Nux, Jr., and Daniel De La Nux, by and through George F. De La Nux, their guardian *ad litem*, and in answer to plaintiff's bill of complaint, deny and allege as follows, to wit:

I.

That defendants have no knowledge or information

as to the truth of the allegations contained in paragraph I of plaintiff's complaint and, therefore, leave said plaintiff to such proof thereof and in that behalf as they may be advised on the trial hereof is material.

## II.

That defendants have no knowledge or information as to the truth of the allegations contained in paragraph II of plaintiff's complaint, and, therefore, leave said plaintiff to such proof thereof and in that behalf as they may be advised on the trial hereof is material.  
[12]

## III.

That defendants have no knowledge or information as to the truth of the allegations contained in paragraph III of plaintiff's complaint, and therefore leave said plaintiff to such proof thereof and in that behalf as they may be advised on the trial hereof is material.

## IV.

Admit that the said Rebecca Houghtailing has been all of her lifetime a resident of the Territory of Hawaii, but deny that she is the owner of a considerable amount of property, both real and personal, or any property whatsoever situated and located within the Territory of Hawaii, and that included in said property thus owned by her is certain real estate known as her homestead, which is situated and located on Kamehameha IV Road in Kalihi, Honolulu, Island of Oahu, Territory of Hawaii; but allege that the said Rebecca Houghtailing did on the 10th day of June, 1905, transfer and deliver all of her said property, both personal and real, to the defendants



herein, subject to a life estate therein and that the said defendants are now the owners of all of the property of said Rebecca Houghtailing, subject to her life estate.

V.

Admit the allegations set forth in paragraph V of plaintiff's complaint.

VI.

Admit that the said Rebecca Houghtailing is an Hawaiian woman aged about fifty-six years; but deny that she is without any knowledge whatsoever about business and business *and business* affairs, or business or business affairs, but, on the contrary, allege that she is now and was at all times mentioned in plaintiff's complaint capable of transacting her [13] business and business affairs; deny that at times she is unable to properly care for and manage her property interests, or care for or manage her property interests, but, on the contrary, allege that she is now and has at all times herein mentioned been able to properly care for and manage her property interests; deny that for more than twenty years last past or for any time whatsoever she has been addicted to over-indulgence in alcoholic liquors, but, on the contrary, allege that she has never at any time, or at all, used alcoholic liquors to excess, and deny that the only time within the last twenty years when the habit mentioned has not been indulged in is when alcoholic liquors have not been obtainable by her, but, on the contrary, allege that although the said Rebecca Houghtailing has always been able to obtain alcoholic liquors if she so desired, that she, the said Rebecca Houghtailing, has never

at any time or at all over-indulged in the use of alcoholic liquors; deny that in consequence of her lack of knowledge of business and business affairs, or business or business affairs, and the habit of over-indulgence in alcoholic liquors, it became necessary to have the said Frederick E. Steere appointed as guardian of her person and estate, but, on the contrary, allege that the said defendants are informed and believe, and upon such information and belief, allege that the said Frederick E. Steere was appointed guardian of the person and estate of the said Rebecca Houghtailing in order that the said Rebecca Houghtailing might be relieved of the care of conducting her business affairs, and not because she was unable to care for and manage her property or was addicted to over-indulgence in alcoholic liquors.

## VII.

Deny that some time prior to the 10th day of June, 1905, or at any or at all, one George F. De La Nux, who is the father of defendants, well knowing the lack of knowledge [14] of the said Rebecca Houghtailing of business and business affairs or business or business affairs, and full well knowing the habit of the said Rebecca Houghtailing of over-indulgence in alcoholic liquors, and full well knowing that owing to said lack of knowledge and said habit, or lack of knowledge or said habit, the said Rebecca Houghtailing would not be able to comprehend fully any action taken by her at a time when she had indulged in the use of intoxicating liquors to excess, or at any time or at all importuned the said Rebecca Houghtailing to place the title to the

homestead hereinabove referred to in the said defendants; that the said Rebecca Houghtailing being then and there, or then or there, desirous of pleasing the said George F. De Ia Nux and being likewise desirous of vesting in these two grandchildren the title to said homestead, reserving unto herself a life interest therein, did in the year 1905, or at any time or at all, except as hereinafter alleged, make known to the said George F. De La Nux her desire to so vest the title to the said property and that thereupon directions were given a scrivener to draft the deed necessary to carry out the said intention; but, on the contrary, allege that during the month of June, 1905, the said Rebecca Houghtailing, being free from the influence of the said George F. De La Nux and from the influence of intoxicating liquors, and being thoroughly competent to transact her business affairs, freely and voluntarily and of her own will and accord, expressed a desire to not only convey said homestead to the said defendants, but all of her property, both real and personal, subject, however, to her life estate.

### VIII.

Deny that thereafter on the 10th day of June, 1905, at a time when the said Rebecca Houghtailing was under the influence of intoxicating liquors, or at any time or at all, there was presented to her for signature a deed of conveyance, [15] a copy of which is attached to plaintiff's complaint and incorporated therein and marked Exhibit "A," and that upon the presentation of the said deed, the said Rebecca Houghtailing in the presence of the father of said

defendants, the said George F. De La Nux, executed the same, except as hereinafter alleged, and that at the time of the execution of same, the said Rebecca Houghtailing relied upon the accuracy of the scrivener employed and upon the good faith of the said George F. De La Nux; but, on the contrary, allege that the said Rebecca Houghtailing was familiar with and knew the contents of said deed; and deny that at the time of the execution of said deed, or at any time or at all, the said Rebecca Houghtailing, by reason of her lack of knowledge of business and business affairs, or lack of knowledge of business or business affairs, and by reason of her over-indulgence in intoxicating liquors, with both of which the said George F. De La Nux was then and there, or then or there well acquainted, was unable to comprehend the terms and conditions, or terms or conditions, of the deed of conveyance which she then and there, or then or there, executed, but believing fully that the same constituted only a conveyance by her of the said homestead to her said grandchildren, reserving unto herself a life interest therein, and at the time of the execution thereof it was only the intention of the said Rebecca Houghtailing to make a conveyance of the said homestead to the said grandchildren, reserving unto herself a life interest therein; but, on the contrary, are informed and believe, and upon such information and belief allege, that at the time the said deed was executed by the said Rebecca Houghtailing to the defendants herein, the said Rebecca Houghtailing was not under the influence of intoxicating liquors and had not over-

indulged in the use of intoxicating liquors and was acquainted with the contents of said deed, and made the same freely and voluntarily and with the [16] express intention of not only conveying said homestead, but all her personal and real property, subject to a life estate, to the said defendants.

### IX.

Deny that notwithstanding the intention of the said Rebecca Houghtailing, as set forth in plaintiff's complaint, to make unto the said defendants a conveyance only of the said homestead, reserving unto herself a life interest therein, the said deed so executed by her did, in truth and in fact, or in truth or in fact, contain a clause reciting that in addition to said homestead, the said Rebecca Houghtailing did further convey also all and singular her real and personal property by her possessed and wheresoever situated, thus transferring in terms unto the said defendants not only the said homestead hereinabove referred to, but all of the other property, both real and personal, owned and possessed, or owned or possessed, by the said Rebecca Houghtailing at the time of the execution of said deed except as hereinafter alleged, but, on the contrary, are informed and believe and upon such information and belief allege that the said Rebecca Houghtailing well knew at the time she executed said deed to the said defendants that it not only conveyed all of her said homestead, but all of her property, both real and personal, and executed the same freely and voluntarily.

### X.

Deny that the insertion of the said provision in

said deed conveying property other than the said homestead was without the consent and knowledge, or without the consent or knowledge, of the said Rebecca Houghtailing, or against the will of the said Rebecca Houghtailing, or was at the instigation, suggestion and connivance, or instigation, or suggestion or connivance, of the said George F. De La Nux, and was inserted therein with the intent on the part of the said George F. De La Nux to deceive [17] and defraud, or deceive or defraud, the said Rebecca Houghtailing and with the intent on the part of the said George F. De La Nux to have said deed executed at a time when her condition, owing to the excessive use of intoxicating liquors, or any use of intoxicating liquors whatsoever, combined with her lack of knowledge of business and business affairs, or business or business affairs, would not permit her to appreciate the full force and effect, or full force or effect, of the instrument so to be executed by her, and that said instrument was executed at a time when the said Rebecca Houghtailing was under the influence of intoxicating liquors and that, in having the same executed at the said time, the said George F. De La Nux did intend to deceive and defraud, or deceive or defraud, the said Rebecca Houghtailing and did deceive and defraud her, or deceive or defraud her; but, on the contrary, are informed and believe and upon such information and belief allege that at the time said instrument was executed, the said Rebecca Houghtailing was free from the influence of intoxicating liquors and free from the influence of the said George F. De La Nux, and that

the said George F. De La Nux did not deceive and defraud, or intend to deceive and defraud, the said Rebecca Houghtailing by having the said Rebecca Houghtailing execute said deed, but that the said Rebecca Houghtailing was familiar with the contents of said instrument and that it conveyed all of her property, both real and personal, to the defendants and executed the same freely and voluntarily.

## XI.

Deny that at the time of the execution of said instrument, or at any time or at all, the said George F. De La Nux knew that it did not express the intent of the said Rebecca Houghtailing; deny that the said George F. De La Nux knew that the said Rebecca Houghtailing did not intend to convey to the defendants property other than the homestead mentioned and, with [18] the knowledge above set forth, assured the said Rebecca Houghtailing that the said deed conveyed to the said defendants nothing save the said homestead; but, on the contrary, defendants are informed and believe and upon such information and belief allege that the said George F. De La Nux well knew at the time of the execution of the said deed the contents of the same and that it expressed the intent of the said Rebecca Houghtailing, and that the said George F. De La Nux did not at any time represent to the said Rebecca Houghtailing that the said deed only conveyed said homestead, but, on the contrary, the said George F. De La Nux advised the said Rebecca Houghtailing that the said deed not only conveyed the said homestead, but all

of her property, both real and personal, to the said defendants.

## XII.

Deny that thereafter, and upon the discovery of the wrongful insertion in the said deed of the provision above referred to, and of the fraud and deceit, or fraud or deceit, which had been practiced upon her, the said Rebecca Houghtailing made demand upon the said George F. De La Nux that steps be taken to have said deed corrected and reformed, or corrected or reformed, in order that the same should carry out the intent of the said Rebecca Houghtailing, but that the said George F. De La Nux refused so to do, basing his refusal, amongst other grounds, on the fact that the defendants herein were minors, but, on the contrary, defendants are informed and believe and upon such information and belief allege that the said George F. De La Nux was never at any time requested by said Rebecca Houghtailing to have said deed corrected and reformed, but that the said Rebecca Houghtailing was satisfied with the conveyance of said property to the said defendants, and said defendants are informed and believe and upon such information and belief allege that [19] said Rebecca Houghtailing does not desire to prosecute this action nor does she desire to have said deed reformed and corrected or changed in any manner whatsoever.

## XIII.

Admit the allegations contained in paragraph XIII of plaintiff's complaint.



XIV.

Admit that said Rebecca Houghtailing is unable to dispose of her property, as aforesaid, for the reason that the same has been conveyed to the defendants herein; but deny that she has any interest whatsoever in said property, other than a life estate.

XV.

Allege that it appears on the face of the complaint that by laches and lapse of time any right which complainant has, or may have had, to a decree of this Honorable Court that said conveyance be canceled and by the Court declared null and void, and of no force and effect, or to a decree for any other relief in said cause, became barred prior to the institution of this suit in equity as said conveyance was executed on the 10th day of June, 1905, and this action was not instituted until on or about the 22d day of May, 1917.

WHEREFORE, defendants pray that plaintiff's bill of complaint be dismissed, with their costs.

Dated Honolulu, T. H., September 20th, 1917.

GEORGE DE LA NUX, Jr., and  
DANIEL DE LA NUX,

Defendants.

By GEO. F. DE LA NUX,  
Their Guardian Ad Litem.

ANDREW & PITTMAN,

Attorneys for Defendants. [20]

Territory of Hawaii,  
City and County of Honolulu,—ss.

George De La Nux, being first duly sworn, deposes and says that he is the duly appointed, qualified and

acting guardian *ad litem* of the above-named defendants, George De La Nux, Jr., and Daniel De La Nux; that he has read the foregoing answer and knows the contents thereof and that the matters and things therein set forth are true, except as to such matters as are stated on information and belief, and as to these he believes them to be true.

GEO. F. DE LA NUX.

Subscribed and sworn to before me this 20th day of September, A. D. 1917.

[Seal] MABEL A. DOANBURG,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

[Endorsements]: E. No. 2090, 2/339. Circuit Court, First Circuit, Territory of Hawaii. Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, Plaintiff, vs. George De La Nux, Jr., and Daniel De La Nux, Defendants. Answer. Filed Sept. 20th, 1917, at 10 minutes past 10 o'clock A. M. B. N. Kahalepuna, Clerk. Andrews & Pittman, 37 Merchant Street, Honolulu, T. H., Attorneys for Defendants. [21]

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE LA  
NUX,  
Defendants.

**Replication.**

Rebecca Houghtailing, through and by Frederick E. Steere, her guardian, the plaintiff in the above-entitled cause, saving and reserving to herself all and all manner of advantage of exception, which may be had and taken to the manifold errors, uncertainties and insufficiencies of the answer of said defendants, for replication thereto, saith:

That she doth and will aver, maintain and prove her said bill to be true, certain, and sufficient in the law to be answered unto by said defendants, and that the answer of the said defendants is very uncertain, evasive and insufficient in the law, to be replied unto by this plaintiff; without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied to and not herein and hereby well and sufficiently replied unto, confessed or avoided, traversed, or denied, is

true; all which matters and things this plaintiff is ready to aver, maintain, and prove as this Honorable Court shall direct.

And, by way of further replication to the new matter set up in the answer of said defendants, the plaintiff avers [22] and alleges as follows:

Plaintiff denies that she at the time of the execution of the deed, set forth and described in the plaintiff's bill of complaint, or at any time prior thereto, knew the contents of said deed, or was advised by George F. De La Nux, or anyone at all; that the said deed conveyed or purported to convey any property at all, other than the homestead of her the said plaintiff.

Plaintiff also denies that she is, or was at any time, satisfied with the purported conveyance of all her property to the said defendants; also denies that she does not desire to prosecute this action, but alleges that it is her desire to prosecute this action, and to have the said deed, before alluded to, reformed and corrected as prayed for.

Plaintiff further denies that it appears on the face of the complaint herein, or at all that plaintiff has been guilty of laches; also denies that the relief she has been and still is entitled to, is barred by laches or for any other cause.

WHEREFORE plaintiff prays that the relief prayed for in her bill of complaint herein be granted to her as prayed.

Dated at Honolulu, September 25th, 1917.

REBECCA HOUGHTAILING,  
Plaintiff.

By FREDERICK E. STEERE,  
Guardian.

ALEXANDER D. LARNACH and  
R. W. BRECKONS,

Attorneys for Plaintiff. [23]

Territory of Hawaii,  
City and County of Honolulu,—ss.

Frederick E. Steere, being first duly sworn according to law, deposes and says that he has read the above and foregoing replication filed by him as guardian of Rebecca Houghtailing, and knows the contents thereof, and that the facts therein stated are true to the best of the knowledge, information and belief of him, the said Frederick E. Steere.

FREDERICK E. STEERE.

Subscribed and sworn to before me this 25th day of September, A. D. 1917.

[Seal] MILLIE F. RAWLINS,  
Notary Public, First Judicial Circuit, Territory of Hawaii.

Received copy of the within Replication.

Dated Honolulu, T. H., September 26, 1917.

ANDREWS & PITTMAN,  
Per P. B. PITTMAN,  
Attorneys for Defendants.

[Endorsements]: E. 2090. 2/339. Circuit Court, First Circuit, Territory of Hawaii. Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, Plaintiff, vs. George De La Nux, Jr., and

Daniel De La Nux, Defendants. Bill for Reformation of Deed. Replication. Filed at 11:35 o'clock A. M. Sept. 26th, 1917. Sibyl Davis, Clerk. Alexander D. Larnach and R. W. Breckons, Attorneys for Plaintiff. [24]

---

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE LA  
NUX,

Defendants.

**Stipulation in re Answer.**

George D. De La Nux and Lahapa De La Nux, now enjoined as defendants in the above-entitled action, having entered their appearance and waived service of the bill of complaint and summons upon them;

IT IS HEREBY STIPULATED AND AGREED by and between counsel for the parties hereto that these defendants having so done, need file no answer in the above-entitled action, but that the answer heretofore filed by George F. De La Nux, as guardian *ad litem* of George F. De La Nux, Jr., and Daniel De La Nux, shall for all purposes be considered the answer of George F. De La Nux and Lahapa

De La Nux, and that no advantage shall be taken against either of said defendants by reason of their not filing separate answers in said cause or personally verifying the answer already filed.

Dated Honolulu, T. H., June 10th, A. D. 1918.

ROBERT W. BRECKONS,

By A. D. L. and A. D. LARNACH,

Attorney for Plaintiff.

ANDREWS & PITTMAN,

Attorneys for Defendants.

[Endorsements]: E. No. 2090, Reg. 2, pg. 339. Circuit Court, First Circuit, Territory of Hawaii. Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, Plaintiff, vs. George De La Nux, Jr., et al., Defendants. Stipulation. Filed June 14th, 1918, at 10 minutes past 10 o'clock A. M. Sibyl Davis, Clerk. Andrews & Pittman, 37 Merchant St., Honolulu, T. H., Attorneys for Defendants. [25]

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX, and LA-  
HAPA DE LA NUX,

Defendants.

**Decision.**

On the 24th day of May, 1917, Rebecca Houghtailing, plaintiff, through and by Frederick E. Steere, her guardian, filed herein a bill of complaint against George De La Nux, Jr., and Daniel De La Nux, defendants, for the reformation of a deed executed by said plaintiff conveying to said defendants a certain piece or parcel of land situate on Kamehameha IV Road, Klihi, Honolulu, and also all real and personal property wheresoever situate with the reservation unto herself, the said plaintiff, of a life interest.

It appearing that the defendants were minors at the time the suit was instituted, their father, George F. De La Nux, was appointed their guardian *ad litem*.

On the first day of December, 1918, George De La Nux, Jr., one of the defendants, died, and this fact being called to the attention of the Court, an order



was made amending the bill of complaint by adding thereto as defendants the [26] names of George F. De La Nux and Lahapa De La Nux, father and mother, respectively, and the heirs, of the said George De La Nux, Jr., and they were thereby made party defendants to the suit.

It appears that on the 11th day of April, 1916, said Rebecca Houghtailing was declared a spendthrift within the meaning of the laws of the Territory of Hawaii owing to the excessive use of intoxicating liquors, and Frederick E. Steere was appointed the guardian of her person and estate. Thereafter, namely, on the 19th day of April, 1917, the said Frederick E. Steere was ordered and directed as such guardian to institute legal proceedings against the defendants for the reformation of the deed aforesaid.

The deed purports to have been signed by Rebecca Houghtailing on the 10th day of June, 1905, and acknowledged by her before a notary public on the 8th day of November, 1905. The instrument was recorded on the 2d day of July, 1910.

The deed, as already stated, purports to be a conveyance from plaintiff to the defendants of a certain piece or parcel of land situate on Kamehameha IV Road, Kalihi, Honolulu, which was then, and a long time prior thereto, and is still, occupied by the plaintiff as her home, and also all of her real and personal property wheresoever situate, subject, however, to a reservation of a life interest in the said plaintiff.

The plaintiff claims that she did not intend to convey all of her real and personal property in the man-

ner indicated, but intended to convey only the home at Kalihi. The object of this suit is to set aside and to strike from the deed the words: "And also all and singular my real and personal property by me possessed and wheresoever situate." [27]

According to the evidence adduced in the hearing of this case, Rebecca Houghtailing was about forty-nine years of age at the time the deed was executed in the year 1905. During the year 1905, and also during many years before and after that year, the plaintiff had living with her in her home her sons Henry and Charles and their families. At the time the deed was executed, two of plaintiff's grandchildren, the children of her son Henry, were living with her. One of them, Bathsheba, was brought up by her and was the favorite grandchild of plaintiff. Bathsheba lived with her grandmother from her birth up to the time of her death in the early part of this year.

The evidence discloses that George De La Nux, one of the present defendants and the father of the two minors, the original defendants, left plaintiff, his mother, when he was about seven years of age, to live with others. It was a number of years afterwards, namely, in 1899, that George's mother again saw him. He was then working at Honokaa, Hawaii, and about to be married. From the time he left his mother, when he was a mere child, to the present time, George has lived with his mother only on a few occasions. His two children visited their grandmother very rarely. George's mother visited him when he was working at Aiea at infrequent intervals.

The court is convinced from the evidence that Rebecca Houghtailing, the plaintiff, has been addicted to the use of intoxication liquors during the past thirty years and that such use has been so excessive as to impair her mentality. On account of her persistent intemperance she never acquired much knowledge concerning business affairs.

The management of her large estate was always left in the hands of others. Her main object in life, it seems was to [28] obtain as much money as possible out of the income collected by those in charge of her estate for purchasing intoxicating liquors.

Her demeanor, her general behavior, and her manner of speech as observed by the court during the trial seemed to indicate that her mind was not normal although at times she showed signs of having once possessed a keen intellect.

In view of the family history and the circumstances above outlined, the action of the plaintiff in conveying her entire property in the manner set forth does not seem to have been the action of a person in a rational and normal state of mind. The Court firmly believes that the plaintiff's mind became so impaired through the excessive use of intoxicating liquors that her son George, who appears to be a person of shrewd intellect, was able to influence her, without much difficulty, to execute the deed in the form above described.

The Court further believes that the plaintiff intended to convey only the home at Kalihi. Plaintiff reposed such implicit faith in her son George, probably on account of his exemplary habits as compared

with those of her other two sons, Henry and Charles, that she fully believed that the deed, which, according to her testimony, was prepared under his instructions, was limited solely to the conveyance of the Kalihi home.

It seems utterly unreasonable for plaintiff to have knowingly conveyed her entire estate to her grandchildren, the children of her son George, when it appears that George and his family were never in as close and intimate contact with her as the other two sons and their families. When the deed was executed these two grandchildren were not living with the plaintiff, the grandmother, and in fact they [29] very rarely visited her. In making the conveyance in the manner that she did, plaintiff wholly ignored her favorite grandchild Bathsheba, the one whom she brought up from infancy. Such action can only be attributed to an abnormal mind and a will easily influenced.

The explanations made by the defendant, George De La Nux, fail to satisfy the Court. His actions and the statements made by him at various times in connection with the execution of the deed and in connection with the attempt made by counsel for plaintiff, his mother, to straighten out the so-called tangle which arose out of the transaction appear to be not only inconsistent but also unreasonable.

The testimony of the witnesses called in his behalf is, in the opinion of the Court, not of sufficient weight to overcome the testimony submitted in behalf of the plaintiff. The circumstances as gathered from the

entire evidence in the case are all in favor of the plaintiff's claim.

In the light of the foregoing observations, the Court finds that Rebecca Houghtailing, the plaintiff, was at the time the deed in dispute was executed, a person addicted to the excessive use of intoxicating liquors; that because of her habitual intemperance she was unable to attend to business affairs, and for that reason was obliged to have others undertake the management of her large estate; that also because of such habitual intemperance she was easily influenced by her son, George; that she was deceived and defrauded by him by being made to believe that the deed conveyed only the Kalihi home; that she succumbed to such deception and fraud because of the trust and confidence that she placed in her said son.

WHEREFORE, it is the opinion of the Court that the deed dated the tenth day of June, 1905, executed by [30] Rebecca Houghtailing, the plaintiff, should be reformed by striking therefrom the words: "And also all and singular my real and personal property by me possessed and wheresoever situate."

A decree in accordance with the tenor hereof will be signed upon presentation.

Dated at Honolulu, T. H., this 30th day of June, 1919.

[Court Seal]

WM. H. HEEN,  
Third Judge.

[Endorsements]: E. No. 2090, Reg. 2, pg. 408. First Circuit Court, Territory of Hawaii. Rebecca Houghtailing etc. vs. George De La Nux Jr., et al. Decision. In Favor of Plaintiff. 33/57. Filed at

9:10 o'clock A. M. June 30th, 1919. Sibyl Davis,  
Clerk. Wm. H. Heen, Third Judge. [31]

---

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff,

vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX, and LA-  
HAPA DE LA NUX,

Defendants.

**Decree.**

This cause for reformation of the deed below set forth came on regularly to be heard before the Honorable Wm. H. Heen, Third Judge of the above-entitled court, on June 16, 17, 18, 19, 20 and 23, A. D. 1919, at the Judiciary Building in Honolulu, City and County of Honolulu, Territory of Hawaii, D. L. Withington and A. D. Larnach, appearing as counsel for the plaintiff, and Messrs. Andrews and Pittman, appearing as counsel for the defendants, and the Court having read the petition and the answers duly filed herein, and having heard the testimony adduced by and on behalf of the respective parties, from which it appears that all of the material allegations of the

said petition are true; that the defendants George De La Nux, Jr., and Daniel De La Nux were minors at the time the suit was instituted; that their father, George F. De La Nux, one of the defendants, was [32] appointed their guardian *ad litem*; that on the 1st day of December, 1918, the said George De La Nux, Jr., one of the defendants died; that this fact being called to the attention of the Court, an order was made amending the bill of complaint by adding thereto as defendants the names of the said George F. De La Nux and Lahapa De La Nux, father and mother respectively and the heirs of the said George De La Nux, Jr.; that the said George F. De La Nux and Lahapa De La Nux were thereby made party defendants to the suit; that on the 11th day of April, 1916, Rebecca Houghtailing, the plaintiff above named, was declared a spendthrift within the meaning of the laws of the Territory of Hawaii, owing to the excessive use of intoxicating liquors, and Frederick E. Steere was appointed guardian of her estate; that thereafter and on the 19th day of April, 1917, the said Frederick E. Steere was ordered and directed as such guardian to institute legal proceedings against defendants for the reformation of the deed before mentioned and hereinafter set forth; the deed in question purporting to convey to the said said George De La Nux, Jr., and Daniel De La Nux a certain piece or parcel of land situate on Kamehameha IV Road, Kalihi, Honolulu, and also all real and personal property wheresoever situate belonging to her, the said plaintiff, reserving unto herself, the said plaintiff, a life interest in said property.

This instrument purported to have been signed by Rebecca Houghtailing on the 10th day of June, 1905, and acknowledged by her before a notary public on the 8th day of November, 1905. The instrument was recorded on the 2d day of July, 1910, and a copy follows:

§2 Stamp. Know all men by these presents: That I, Rebecca Houghtailing (nee Mrs. P. C. A. De La Nux) of Honolulu, Island of Oahu, Territory of Hawaii, for and in consideration of my Love and Affection for my Grand Sons, George De La Nux Jr. and Daniel De La Nux, and in further consideration of the sum of One Dollar (\$1.00) to me in hand paid by my said Grand Sons, [33] George De La Nux, and Daniel De La Nux, the receipt whereof is hereby acknowledged, do hereby bargain, grant, sell, Transfer and Convey unto my said Grand Sons George De La Nux and Daniel De La Nux, all and singular that certain piece or parcel of land situate on Kanehameha IV Road, Kalihi, Honolulu, Island of Oahu, Territory of Hawaii, and being the same now occupied by me as my Home, together with the improvements thereon.

And also all and singular My Real and Personal property by me possessed and wheresoever situate.

To have and to hold the same unto my said Grand Sons George De La Nux and Daniel De La Nux, their heirs and assigns, together with all and singular the rights, privileges, rents and income thereof, Tenements, Hereditaments and Appurtenances Forever, Reserving however unto me, the said Rebecca Houghtailing, a Life Estate therein.

In witness whereof I the said Rebecca Houghtail-



ing have hereunto set my hand and seal this 10th day of June A. D. 1905.

(Signed) REBECCA HOUGHTAILING.

In presence of:

(Signed) WILLIAM SAVIDGE.

Territory of Hawaii,  
County of Oahu,—ss.

On this 8th day of November, A. D. 1905, personally appeared before me Rebecca Houghtailing (W) known to me to be the person described in and who executed the foregoing instrument who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

[Seal] (Signed) WILLIAM SAVIDGE,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii. [34]

Endorsed thereon: Entered of record this 2d day of July A. D. 1910 at 9:18 o'clock A. M. and compared.

CHAS. H. MERRIAM,  
Registrar of Conveyances.

The deed before mentioned as already stated, purports to be a conveyance from plaintiff to George De La Nux, Jr., and Daniel De La Nux, of a certain piece or parcel of land situate on Kamehameha IV Road, Kalihi, Honolulu, which was then and for a long time prior thereto and is still occupied by the plaintiff as her home, and also of all of her real and personal property wheresoever situate, subject, however, to a reservation of a life interest in the said plaintiff. According to the evidence adduced at the hearing of this case, Rebecca Houghtailing was

about forty-nine years of age at the time the deed was executed in the year 1905. During the year 1905, and also during many years before and after that year, the plaintiff had living with her, in her home, her sons Henry and Charles and their families. At the time the deed was executed, two of plaintiff's grandchildren, the children of her son Henry, were living with her. One of them, Bathsheba, was brought up by plaintiff and was the favorite grandchild of plaintiff. Bathsheba lived with her grandmother from the time of her birth up to the early part of this year.

George De La Nux, one of the present defendants, and the father of the two minors, the original defendants, left plaintiff, his mother, when he was about seven years of age and lived with others. It was a number of years afterwards, namely in 1899, that George's mother again saw him. He was then working at Honokaa, Hawaii, and about to be married. From the time, he left his mother, when he was a mere child, up to the present time, George has lived with his mother only on a few occasions. His two children visited their grandmother very rarely. George's mother visited him when he was working at Aiea [35] at infrequent intervals.

Rebecca Houghtailing, the plaintiff, has been addicted to the use of intoxicating liquors during the past thirty years and such use has been so excessive as to impair her mentality. On account of her persistent intemperance, she has never acquired much knowledge concerning business affairs. The management of her large estate was always left in the

hands of others. Her main object in life, it seems, was to obtain as much money as possible out of the income collected by those in charge of her estate, and such money use for the purchase of intoxicating liquors. The Court finds that the plaintiff's mind became so impaired through the excessive use of intoxicating liquors, that her son George, a person of shrewd intellect, was able to influence her without much difficulty to execute the deed in the form above described and set forth.

The Court further finds that the plaintiff intended when she signed the deed above described and set forth, to convey to the said George De La Nux, Jr., and Daniel De La Nux, only the homestead at Kalihi.

The Court further finds that in consequence of the trust and confidence reposed in her son George, she, the said Rebecca Houghtailing, relying on the statements to her made by the said George, fully believed that the deed before mentioned, which was prepared under the instructions of the said George De La Nux, was limited solely to the conveyance of the Kalihi home. That her son George deceived and defrauded her, the said Rebecca Houghtailing, by making her believe that the deed before mentioned conveyed only the Kalihi home; that this deception and fraud was made possible by reason of the trust and confidence placed by her, the said Rebecca Houghtailing, in the said George De La Nux.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that [36] the deed above set forth, dated the 10th day of June, 1905, executed by Rebecca Houghtailing, the plaintiff, be reformed

by striking therefrom the words: "And also all and singular my real and personal property by me possessed and wheresoever situate." Furthermore, that defendants pay the costs of this proceedings to be hereafter taxed.

Dated, Honolulu, T. H., June 30th, A. D. 1919.

[Court Seal] (Signed) WM. H. HEEN,  
Third Judge, First Circuit Court, Territory of  
Hawaii.

Approved as to form only except as to clause decreeing costs to be paid by defendants, which are not awarded by the decision.

ANDREWS and PITTMAN,  
By P. L. WEAVER.

[Endorsements]: E. No. 2090. Reg. 2, pg. 339.  
Circuit Court, First Circuit, Territory of Hawaii.  
At Chambers. In Equity. Rebecca Houghtailing,  
Through and by Frederick E. Steere, Her Guardian,  
Plaintiff, vs. George De La Nux, Jr., Daniel De La  
Nux, George F. De La Nux and Lahapa De La Nux,  
Defendants. Decree. 33/57. Filed at 2:40 o'clock  
P. M. June 30th, 1919. Sibyl Davis, Clerk. Alex-  
ander D. Larnach and Withington, Attorneys for  
Plaintiff. [37]

---

482. Filed at 2 o'clock P. M., Sept. 15, 1919.  
B. N. Kahalepuna, Clerk.

No. 1220. Rec'd and filed in the Supreme Court  
Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker,  
Jr., Assistant Clerk. [38]

Filed at 2 o'clock P. M. Sept. 15, 1919. B. N.  
Kahalepuna, Clerk. [39]

MRS. REBECCA HOUGHTAILING

vs.

GEORGE DE LA NUX et al.

TRANSCRIPT.

INDEX.

	Direct.	Cross.	Re- direct.	Re- cross.	Re- called.
PETITIONER'S CASE:					
F. E. Steere	1	11	13		
J. L. P. Robinson	15	25	28		181
Rebecca Houghtailing	29	54	75	79	152-190
Mollie Cockett	81	87			
A. G. Correa	92	95			
Mary Cullen	106	109			
Agnes Robello	111	114			
Henry De La Nux	117	126	130		
Charles De La Nux	131	140	143		
Mrs. Chas. De La Nux	145	148			
Petitioner Rests	150				
RESPONDENTS' CASE:					
Mr. G. A. Richards	(150-155)				
Mrs. Kaae Haeho	(158-196)	200			
E. C. Henry	160				
Lucy Kauhane	164	170			
W. L. Whitney	175	179			
R. Wetherbee	182	184			
C. N. Arnold	185	187	188		
Jesse Makanai	188				
Daniel Holapu	208	209			
Mrs. Lahapa De La Nux	212	224			
George De La Nux	235	(264-267)			
Respondents Rest	289				
REBUTTAL:					
Mrs. Manuel Moses	290	293			
Henry De La Nux	294				
Charles De La Nux	295				
A. D. Larnach	295				
SURREBUTAL:					
Mrs. Lahapa De La Nux	304				

Filed at 2 o'clock P. M. Sept. 15, 1919. B. N. Kahalepuna, Clerk. [40]

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

EQUITY—No. 2090.

PETITION FOR REFORMATION OF DEED.  
REBECCA HOUGHTAILING, by F. E. STEERE,  
Her Guardian,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE LA  
NUX.

Before Honorable WM. H. HEEN, Judge Presiding  
in Equity.

APPEARANCES:

ALEX LARNACH and DAVID L. WITHING-  
TON, for Petitioner.

ANDREWS & PITTMAN, for Respondent.

HEARING:

Monday, June 16, 1919, 9 o'clock A. M.

**Testimony of F. E. Steere, for Petitioner.**

Direct examination of F. E. STEERE, called for  
petitioner, duly sworn, testified as follows:

By Mr. LARNACH—Your name, please.

A. Frederick Steere.

Q. Your business, Mr. Steere?

(Testimony of F. E. Steere.)

A. Real estate department of the Henry Waterhouse Trust Co.

Q. Here in Honolulu? A. Yes, in Honolulu.

Q. How long have you been a resident of Honolulu? A. Twenty years.

Q. How long have you been in business along the lines you have mentioned?

A. Sixteen or seventeen years.

Q. A part of your business consists in handling—property for [41] others, *doesn't*, Mr. Steere?

A. Yes.

Q. And you have followed that particular line for sixteen or seventeen years? A. Yes.

Q. Do you know Rebecca Houghtailing?

A. I do.

Q. Who sits here in court? A. Yes.

Q. Have you any business dealings with Rebecca Houghtailing, Mr. Steere?

A. I am her guardian at the present time.

Q. Appointed by whom?

A. Appointed by the Court.

Q. How long have you been such guardian, Mr. Steere? A. Since April 12, 1916.

Mr. LARNACH.—I will ask at this time that Probate 5053 be incorporated, that is to say, the petition asking for the appointment of Mr. Steere as guardian, and the order appointing Mr. Steere as guardian, for the purpose, to show his authority to act as guardian, for the purpose of showing the reason that Rebecca Houghtailing was placed under a guardian-

(Testimony of F. E. Steere.)

ship, in other words, to show she was incompetent at that time.

Mr. ANDREWS.—That wouldn't have anything to do with anything that happened in 1905; I haven't any objection to admitting that Mr. Steere was officially appointed guardian of her property; I don't want any *ex parte* matters in evidence that we cannot meet.

Mr. WITHINGTON.—That is a matter of argument; it is admissible in this case.

Mr. ANDREWS.—I want it distinctly understood that it is not [42] going in as evidence except to show *ex parte* that Mr. Steere is appearing here—

The COURT.—It is admitted for that purpose only, to show his authority to appear in this case.

Mr. LARNACH.—Do you know why it was necessary to institute those proceedings in 1916, Mr. Steere?

Mr. ANDREWS.—I object to it as irrelevant, incompetent and immaterial—

Mr. ANDREWS.—I want it understood—

Mr. LARNACH.— —placing Mrs. Houghtailing under guardianship?

Mr. ANDREWS.—It is understood that does not affect anything that happened in 1905.

The COURT.—Objection sustained. You can show acts which led up to this.

Mr. LARNACH.—How long have you known Mrs. Rebecca Houghtailing, your ward?

A. Why, I don't know that I can say just how many years. I know that I have known her, had to



(Testimony of F. E. Steere.)

do with her for a number of years, that is, all I know is this, some years ago, representing the Western Investment Company, through my connection with the Henry Waterhouse Trust Company, I passed on security, a mortgage that was presented in her behalf, and the mortgage was taken; since that time I have very often had to do with her to collect interest due on that mortgage. I cannot fix exactly that date, the date of that mortgage, can be fixed, and I can tell you how long I have known Rebecca Houghtailing.

Q. What do you know of Mrs. Houghtailing's business capacity?

Mr. ANDREWS.—What time? We object to that.

Mr. LARNACH.—During his period of his knowledge of Mrs. Houghtailing.

Mr. ANDREWS.—Unless it is shown to be antecedent to 1905; [43] one of our defenses is the allegation, the delay in bringing these proceedings.

Mr. LARNACH.—If your Honor please, it might be of interest to look at the alleged deed at this time in respect to Mr. Andrew's objection; the deed is dated the tenth day of June, 1905, and examination will show that it was brought before the notary public in November, having been dated in June, the same year, 1905, and it was not recorded until 1910, for some reason wasn't brought forward.

The COURT.—When was it acknowledged?

(Testimony of F. E. Steere.)

(November)

Mr. LARNACH.—On the 8th day of September, 1905, the deed is dated the tenth day of June, 1905; in other words, executed in June, apparently, and the notary's certificate is dated the 8th day of November, 1905, and wasn't entered of record until about five years later. Now we are going to show that until this was entered of record, at least Mrs. Houghtailing had absolutely no knowledge of the contents of this instrument; but she believed that it referred to the homestead, and that even then it wasn't brought home to her knowledge until sometime later when someone interested in those lands brought a copy of the deed to Mrs. Houghtailing, at which time she then sought legal advice.

Mr. ANDREWS.—That don't make any difference, if the Court please; the question is, if there was anything—they charge in June, 1905, she was incompetent, under the influence of liquor and unable to transact any business in 1905, now, all right, eliminate that, prove what her condition was in 1905 before this happened; you certainly cannot prove that she insane in 1908 or 1909.

The COURT.—Her condition after the execution of the deed, which was executed in June, 1905, would be only admissible for the [44] purpose of showing—

Mr. LARNACH.—Another reason will be this, if the Court please, that we intend to show, knowing that condition, later on George De La Nux securing the presence of this lady down at his homestead at Aiea, from that homestead took her right to her at-

(Testimony of F. E. Steere.)

torneys to call this suit off—

The COURT.—That may be true enough; you will have to commence something prior to June 1905.

Mr. LARNACH.—With the permission of your Honor, we are putting it on in an illogical order, by putting the guardian on and showing his reasons for bringing the suit to prevent his being called again, placing before the Court what he knows.

The COURT.—I will take it that you will be able to show the woman's condition prior to 1905?

Mr. LARNACH.—Yes, your Honor.

The COURT.—I will overrule the objection.

Mr. LARNACH.—(Last question read to witness.)  
Covering the period of your acquaintance with her?

WITNESS.—When I first, from my recollection, came in contact with Rebecca Houghtailing, first came in contact with her—not representing her, but representing people who were loaning money to her; after that it became my duty to see that the obligations of this mortgage, under this mortgage, were paid, and on every visit that I made out to her home, I always found her in more or less intoxicated condition, or what I considered to be a little intoxication; it has always been a very difficult matter for me to get the money due on this mortgage, and took repeated visits to her home to get it. That in a general way covers my experience all [45] during the time that I had to do with her up to the time of my being appointed guardian.

Q. Now, when you were appointed guardian were

(Testimony of F. E. Steere.)

you able or did you obtain from Mrs. Houghtailing a list of her property?

A. I did not.

Q. Why not?

A. She knew nothing about her property; she said that Mr. Mark Robinson had acted as her agent, that is all she knew about it.

Q. During the period of your knowledge of Mrs. Rebecca Houghtailing, can you state whether or not she was competent to manage her own affairs:

Mr. ANDREWS.—I object as calling for a conclusion; it is for the Court to say.

The COURT.—Objection sustained.

Mr. LARNACH.—Did Mrs. Rebecca Houghtailing ever conduct any business negotiations with you for any purpose whatsoever Mr. Steere, during, that is, covering the period of your knowledge of her—did she herself conduct any business negotiations with you? A. No.

Q. Now what property have you belonging to Mrs. Rebecca Houghtailing, in your charge at the present time or under your control?

A. Why, I have certain stocks and bonds, I cannot give it any more than that.

Q. Are they in your possession or in possession of anyone else, Mr. Steere?

A. Well, some, most of it, stocks and bonds are in my possession; there are some stocks in the possession of Mr. Robinson or the men representing the Mark Robinson estate [46] all of which is set out in my last report to the Court.

(Testimony of F. E. Steere.)

Q. That is, you mean the report that you filed with the court in the matter of the guardianship of Rebecca Houghtailing? A. Yes.

Q. Now, you say that you filed a report an account, with the Court, how long ago was that?

A. My recollection is that it was the latter part of 1916.

Q. Have you made any efforts, Mr. Steere to dispose of this homestead of Mrs. Houghtailing?

A. I have not.

Mr. ANDREWS.—That we object to as irrelevant, incompetent and immaterial. What is that for?

Mr. LARNACH.—Have you made any effort to—

The COURT.—Objection sustained.

Mr. LARNACH.—Have you made any efforts to realize on any of her property, meaning Rebecca Houghtailing's property?

Mr. ANDREWS.—We object, unless counsel explains what it is for.

Mr. LARNACH.—By virtue of this deed on record, Mr. Steere is unable to do anything with the property. If that is admitted that is all right.

Mr. ANDREWS.—Certainly.

The COURT.—It is a matter of law.

Objection sustained.

Mr. ANDREWS.—For the purpose of showing the value of this property we have no objection to it.

Mr. LARNACH.—Have you ever filed any inventory Mr. Steere, for Mrs. Houghtailing?

A. Well, my recollection is that in my report, if I am not mistaken, I called attention to the Court that

(Testimony of F. E. Steere.)

there was a suit pending in regard to the ownership of the property alleged to be—belong to my ward, and that until that was determined [47] I could not file any inventory that would be satisfactory to the Court that is, whether she had a life interest or a fee simple interest in certain schedule of property, stocks, bonds, but there has never been a real inventory of her property filed with the Court.

Q. Never has?

A. Never has, that is my recollection of it.

Q. Could you obtain a list of the stocks that you have on hand, or can you refresh your recollection by being shown a copy of the account that you filed with the court, Mr. Steere?

A. Well, I couldn't swear, of course, that she was—I could swear to the exact number of shares, and so forth, I could identify the stocks as stocks on which I am receiving dividends, and so forth, I would want to say that I had so many shares.

Q. Can you make out a list and let us have it, Mr. Steere, that you have?      A. Certainly.

Q. At your convenience.

Mr. ANDREWS.—I understand that this will be filed in evidence?

Mr. LARNACH.—Yes.

Mr. LARNACH.—(Reading from the account.) Now, we have, Mr. Steere, here, a dividend on thirty-seven shares of Oahu Sugar company stock, have you those thirty-seven shares in your possession belonging to Mrs. Houghtailing—

(Testimony of F. E. Steere.)

Mr. ANDREWS.—If the Court please, the papers should go in.

Mr. LARNACH.—Handing you this, Mr. Steere, which purports to be a copy of your Schedule “A,” annual report filed by you, will you refresh your recollection, if you can, from that and let us know, what stocks Rebecca Houghtailing had, and what the value is? (Handing witness document.)

A. This schedule shows dividends received on certain stocks, [48] and I still have these stocks in my possession.

Q. And what are with Mr. Robinson, what stocks—what stocks are they, when you say, there are certain stocks? A. Thirty-seven shares of Oahu.

Q. Its value? A. I could not tell you its value.

Q. Next, please?

A. Ten shares of Waialua Agricultural Company.

The COURT.—Is that list correct, as far as you know, Mr Steere?

A. That list is correct as far as I know, except that this other, I could not tell you that.

Q. Have you just what shares are in this list there, or some one—

A. They are in the possession of Mr. Robinson, all the income from this is coming to me; there has never been any attempt on the part of Mr. Robinson to keep back that income; they have, however, refused to deliver to me certain shares of stock, also, since this has been made out, there has been some stock dividends on those, which of course,—all of which will show in my next report; I haven't put in

(Testimony of F. E. Steere.)

any report, I haven't intended to put in a report until this suit is finished; the income from every one of these stocks always comes to us, never any of the income kept back by the estate, but some of this list as put down here, shares of stock, are not absolutely in my possession, but I can't tell you just what they are offhand.

The COURT.—But they belong to Mrs. Houghtailing, nevertheless?

WITNESS.—They belong to Mrs. Houghtailing, they are in her name or in my name as guardian of Mrs. Houghtailing.

The COURT.—That is, stocks now held by the Robinson estate [49] are pledged by them as collateral?

WITNESS.—Robinson claims that Mrs. Houghtailing owes them something like ten thousand dollars; it was in that account.

The COURT.—With that exception this list can be admitted in evidence, there is no objection?

Mr. ANDREWS.—No objection, your Honor. Does that include the real estate too?

WITNESS.—This particular list here shows income from stocks and then you will notice also in the list dividends received by the Robinson estate, and this includes all her income at that time.

Mr. ANDREWS.—I haven't any objection to it.

The COURT.—That may be received in evidence, Schedules "A" and "B," if there is no objection to the copy, it will be admitted in evidence.

Received and marked Plaintiff's Exhibit "B"



(Testimony of F. E. Steere.)

(copy of the annual report of—annual account of Mr. Steere).

The COURT.—The document purporting to be the first annual account of the guardian of the personal estate of Rebecca Houghtailing is received in evidence and marked in order.

Mr. LARNACH.—Will you bring later, Mr. Steere, an exact list of all the stocks you have in your possession at the present time?

WITNESS.—Yes.

Mr. LARNACH.—With the permission of the Court we will file that showing exactly what Mr. Steere has in his possession now.

Mr. ANDREWS.—We object to that as immaterial.

WITNESS.—There has been some stock dividends since that was filed.

Mr. ANDREWS.—Also, I understand that some of this stock is not [50] in his hands, but belongs to Mrs. Houghtailing?

The COURT.—The value of the stock in the month of June, 1905.

Mr. LARNACH.—It would simplify matters very much if Mr. Andrews would admit that you cannot deed personal property by deed—

The COURT.—Proceed.

Mr. LARNACH.—Have you settled the claim of the Robinson estate, Mr. Steere?

A. I have not.

Mr. LARNACH.—That is all.

(Testimony of F. E. Steere.)

Cross-examination.

Mr. ANDREWS.—Mr. Steere, the question of real property, you say you don't know how much you have got, that is not reported in this report, any real property, that you say she has a life estate in?

Mr. WITHINGTON.—I want to show by Mr. Steere the date of this mortgage, also this list, later, but we are finishing outside of that.

Mr. ANDREWS.—These refer to these stocks?

A. No, she has dividends from an interest in the Robinson estate.

Q. Yes, but it doesn't show where the property is or its value?

A. No; I pointed—I distinctly pointed out to the Court I couldn't file an inventory until I could determine whether she had a life interest or a fee simple title to all of this property.

Q. But there is nothing in this report that shows any pieces of realty, to show that she has either a life interest or fee? [51]

Mr. LARNACH.—I object to that; the report is the best evidence; that is not complete. As a matter of fact, the report that Mr. Steere filed shows an audit by the Audit Company of Hawaii; there will be no objection to it if counsel changes his question.

The COURT.—There is nothing in here about real estate.

WITNESS.—I think you will find it shows dividends from an interest in the Robinson estate in this report; this was a complete report at that time from—of all receipts and disbursements.

(Testimony of F. E. Steere.)

Mr. ANDREWS.—But it is not an inventory, in other words, of the property, showing the real and personal property.

WITNESS.—Never been a complete inventory made, the kind that should be filed in this court of that property, and I pointed out to the Court when I filed this report, that I wanted further time to file the inventory. I do not think at the present time I could file a competent inventory until this suit is determined.

Mr. ANDREWS.—Then, now, in addition to that, is there any record anywhere showing here, when any of these stocks were purchased by Mrs. Houghtailing; this was simply stock she had on hand May first, 1916, was it not, when did you purchase any between the two—

A. No, I never purchased any stock for her; as I say, she has had some dividend shares come to her from stock dividends; I never—didn't consider that, with the deed against the estate, that I had a right to go and do anything to this other estate until it was determined.

Q. Do you know whether there are any stocks not mentioned in this report that you have in your possession or that Mr. Robinson has under his control?  
[52]

A. To the best of my knowledge, all stocks, and shares or dividends, or dividend paying stocks.

Q. Are mentioned in that inventory?     A. Yes.

Mr. ANDREWS.—That is all.

Mr. WITHINGTON.—I offer the original first annual report, annual account by Mr. Steere.

(Testimony of F. E. Steere.)

The COURT.—Let the original then be marked Exhibit “B” and the copy withdrawn.

Redirect Examination.

Mr. LARNACH.—Q. Mr. Steere, showing you report of the guardian of the person and estate of Rebecca Houghtailing, Probate 5053, you filed that, didn’t you, Mr. Steere, in the court here? A. I did.

Q. You made it up? A. Yes.

Q. And attached to the report and alluded to in your report are to be found exhibits “A” and “B,” “C” and “D”; that is correct, is it? A. Yes.

Mr. LARNACH.—I offer it in evidence.

Received and marked Plaintiff’s Exhibit “C.”

The COURT.—This is a report of the guardian filed November 20, 1917, probate 5053.

Mr. LARNACH.—Also, if your Honor please, as Exhibit “D” the order signed by the Honorable C. W. Ashford, directing Mr. Steere to file suit in this particular matter before the Court, showing Steere’s authority. [53]

The COURT.—This is an order dated April 19, 1917, Probate 5053, authorizing the guardian to bring suit, may be received in evidence and marked in order.

Received and marked Petitioner’s Exhibit “D.”

Mr. LARNACH.—As I understand, Mr. Steere, you are collecting on behalf of Mrs. Houghtailing—with the permission of the Court—matters which have arisen by reason of the introduction of these papers, showing Mr. Steere’s—if I may be permitted to proceed—certain income from the estate of Mr. Robinson, you are obtaining certain income from

(Testimony of F. E. Steere.)

stocks and bonds which you have in your own hands now, isn't there some other source from which you collect income for Mrs. Houghtailing, some other property?

A. Yes, there is some property belonging to Mrs. Houghtailing—rent, paid by the Waialua Agricultural Company, that rent has just come to me up to the last six months, that rent had been anticipated, had never come into my hands until recently.

Q. I see; is the rent per annum that you collect from that?

A. Two hundred and fifty dollars per annum.

Q. Do you know the value of the land, Mr. Steere?

A. I do not.

Q. Do you know how many acres there are in that piece of land? A. I do not, offhand; no.

Q. But it is leased by Mrs. Houghtailing to the Waialua Agricultural Company? A. It is.

Q. Can you furnish us with that information, Mr. Steere, of the area of that piece of land at Waialua belonging to Mrs. Houghtailing for which you are collecting rent, and its value? A. Yes. [54]

Q. Now, how about any land on Kauai—hasn't Mrs. Houghtailing got any land on Kauai?

A. To the best of my knowledge she has; the income from that is coming through the Robinson estate at the present time.

Q. That is what is styled the Foster Hanalei land in your report? A. Yes.

Mr. LARNACH.—That is all.

Mr. ANDREWS.—No questions.

**Testimony of J. L. P. Robinson, for Petitioner.**

Direct examination of J. L. P. ROBINSON, called for petitioner, sworn, testified as follows:

MR. LARNACH.—Your name, please?

A. J. L. P. Robinson.

Q. How long have you resided in Hawaii, Mr. Robinson? A. I was born here, in 1880.

Q. What age are you?

A. Thirty-nine years old.

Q. You were married and had your home here right along? A. Yes.

Q. What business are you in?

A. Well, I am—it is hard to say; you might call it agent and trustee.

Q. For whom? A. For the Robinson estate.

Q. You know this lady sitting here, Mrs. Houghtailing? A. Yes.

Q. Are you any connection of hers at all, Mr. Robinson? [55]

A. Yes, she is the daughter of my father's brother—half brother.

Q. How long have you known Mrs. Houghtailing?

A. Why, my first recollection of her was, about the year 1897, I think that is the first time I remember ever seeing her.

Q. How did you become acquainted with her at that time?

A. My father was on a sick-bed and she used to visit him.

Q. Where were you and your father living at that time?

(Testimony of J. L. P. Robinson.)

A. At his residence in Nuuanu Valley.

Q. Did your father have any business dealings with Mrs. Houghtailing?     A. Yes, he did.

Q. What business dealings did he have?

A. He collected money for her and he acted as her agent.

Q. Acted as her agent—     A. For many years.

Q. For how many years?

A. As I remember, the records go back to 1896.

Q. As far as the records show?

A. As far as the records show.

Q. How often did you see Mrs. Houghtailing, about that time, 1897?     A. When I first saw her?

Q. Yes.

A. Oh, I can't say now; she used to visit father occasionally; my father was sick at that time; I had no occasion to see her at that time; I was going to school; I had no connection with the office.

Q. When did you first have any business connection with the office, meaning your father's office?

[56]

A. 1901.

Q. Did you see Mrs. Houghtailing very frequently then, or infrequently?

A. Yes, very frequently; she came in pretty regularly.

Q. What do you mean, pretty regularly?

A. Well, I think about once a week.

Q. For what purpose?     A. For money.

Q. To collect money?     A. To collect money; yes.

(Testimony of J. L. P. Robinson.)

Q. Did you wait on Mrs. Houghtailing, or did your father, Mr. Mark Robinson?

A. At times I did when my father wasn't in the office.

Q. What have you to say regarding Mrs. Houghtailing's habits as to sobriety?

A. Well, she never was under the influence of liquor when she came into the office, although very often she appeared, she showed the effects of it; you see, she never appeared in the office under the direct influence of liquor, although she appeared that she had been drinking, very often.

Mr. ANDREWS.—Had been drinking some?

WITNESS.—Or the after effect of it.

Mr. LARNACH.—That was very often?

A. Yes.

Q. Right straight along?

A. Sometimes she didn't appear very straight, other times she was.

Q. How long did that course of conduct continue during the time she visited your office and was drawing money?

A. Until 1916, when Mr. Steere took charge of her affairs.

Q. Now, have you had—have you the same thing to say regarding [57] her conduct during that whole period from 1901 to 1916, Mr. Robinson?

A. Yes, I should say so, about the whole period, as far as I know.

Q. What do you know about Mrs. Houghtailing's business capacity or ability, did you ever hear of her,



(Testimony of J. L. P. Robinson.)

know of her to transact any of her own business?

A. Why, she apparently never had any business to do, she came to father, except some of her own private affairs that we had no connection with at all; we were connected more through the estate, through her income through the estate.

Q. From 1901 on to 1916, did you have any property or interests of Mrs. Rebecca Houghtailing in your charge, in your care, or control? A. I did.

Q. Now, what were those interests, Mr. Robinson?

A. How do you want them, amount of shares?

Q. Give us the list, if you can possibly do so, her interest, how many, so many shares of Ewa, so many shares of Waialua, quarter interest in realty, if she has an interest.

A. I have a list in my book here of her property, I haven't a list of the stocks and bonds—

Q. Real estate, if you please.

A. The two first columns representing her share, and the time of Mrs. Allen's death in 1914, when a small share was added on—in 1904, the first column, represents her share; the first two columns, that is, the whole interest, and her share; the second column would be 1914, at the time of Mrs. Allen's death.

Q. Her property was added to by reason of Mrs. Allen's death? A. A small interest. [58]

Mr. LARNACH.—Have you any objection to that being introduced in evidence, Mr. Andrews?

Mr. ANDREWS.—No.

Mr. LARNACH.—Just the first column of which,

(Testimony of J. L. P. Robinson.)

over which I will put a mark (A) in a circle, indicates what?     A. Her share.

Q. Mrs. Rebecca Houghtailing's share?

A. Yes.

Q. In the lands which are placed on the opposite, to the right, or left?     A. Yes, at the left.

Q. Now, the second column indicates what, if you please?

A. Represents the value of the property in 1904.

Q. That I will mark with a circle (B). What property do you mean, please, when you say, "her property"?

A. The property opposite each one of these lines, that is, each fraction.

Q. Of what particular estate?

A. Well, it is her interest in properties in her own name, that is, properties that are outside of the estate, and in the estate of James Robinson; it is rather complicated.

Q. In other words, it is the total of her property?

A. In other words, this list is divided this way, three properties, or four properties, come under the estate of James Robinson, then she has properties outside of the estate of James Robinson, 1, 2, 3, 4, 5, 6, properties; in other words, ten properties represented on this list, four properties of which belong to the estate of James Robinson, and four properties owned by members of the family.

Q. From those items referred to in the list, Mr. Robinson? [59]

A. Yes, the last four are the estate.

(Testimony of J. L. P. Robinson.)

Q. Then the first six mentioned on this list from Hoaeae land, Ewa, down to and including the property, the Nuuanu property?

A. Yes, are properties outside of the estate that she has an interest in or share.

Q. And the remaining four properties belong to the James Robinson estate, from the Robinson block down to and including the Waikiki property—

A. Belong to the estate of James Robinson.

Q. In which Mrs. Houghtailing has an interest?

A. Yes; it might set up an ambiguity in stating the James Robinson estate, and the Robinson estate, because we hold shares outside of the Robinson estate, and I represent, for instance, that Maunalua land that I pay rent to her, that doesn't come through the Robinson estate to her, but comes through me direct as agent of Foster, so that you want to separate, make a difference between the estate of James Robinson and the Robinson estate, which might be called the Mark Robinson estate.

Q. All a part of these items?

A. In other words, this—first six columns—the first six properties, are properties represented by my father, owned by my father and other members of the Robinson family outside of the James Robinson estate.

Q. Now, the third column represents what, the share?

A. The value of the share on that basis in 1904, tax basis. The first column represents the value of the

(Testimony of J. L. P. Robinson.)

whole property; the second column would her first—her share of that fraction.

Q. Now, coming to the fourth column, 1914, that indicates [60] the share of Mrs. Houghtailing in those same properties?

A. The same properties with the addition, that in these properties she comes into a share, became an heir of Mrs. Bathsheba Allen, which is added onto it.

Q. In the column labeled 1919, that indicates the taxable value of her property, all of her landed property which *her* carried in the last column?

A. Yes.

The COURT.—What is the value—

Mr. LARNACH.—Making the total value according to your calculation, of twenty-one thousand two hundred and twenty-eight dollars and sixty-three cents (\$21,228.63)? A. Yes.

The COURT.—What is the total value of the property, real estate?

Mr. LARNACH.— —in Mr. Robinson's charge right now?

WITNESS.—That is the total value of the real estate in my charge right now.

Q. This is outside of the stocks and bonds?

A. Yes, this is the real estate.

The COURT.—That is all, what is the value of the property, that is what you want; the detail matters are not material as far as the Court is concerned.

Mr. LARNACH.—I will ask that this list be filed.

The COURT.—It may be received and marked.

Received and marked Petitioner's Exhibit "E."

(Testimony of J. L. P. Robinson.)

Mr. LARNACH.—How much increase from the list that you have made from the date, 1904, was there after Mrs. Allen's death, how much proportion was the increase in the land?

A. Well, the proportion will show in the list there; I think it increased from ten up to seventeen.

Mr. WITHINGTON.—Oh, the fraction, instead of 144, what was the [61] fraction after that?

A. Well, I have that on my other book. I haven't got it segregated that way.

Q. Instead of a 144th in these last three properties, where she shows a 144th interest, after Mrs. Allen's death, it changed to 13/576th.

The COURT.—All this property acquired before June, 1905?

Mr. WITHINGTON.—Yes, but not at Mrs. Allen's death, her share was increased, but came under will previous to that—her interest existed, but on Mrs. Allen's death she got her proportion.

The COURT.—The deed in controversy purports to convey what she possessed at the time, did she possess this interest at that time?

Mr. WITHINGTON.—But it was subject to Mrs. Allen, when she died it came to her, and to the other heirs.

Mr. ANDREWS.—We have no proof of that except the statement, and I am frank to say I know nothing about it; I presume what Mr. Withington says is true.

The COURT.—The increase was not very much.

WITNESS.—No, a very small fraction.

(Testimony of J. L. P. Robinson.)

The COURT.—Q. This taxation value was taken as of what year?

WITNESS.—I have taken—I have added the columns at each year, for instance, those are the values in 1904.

Q. What is the value in 1904, total value in 1904 of her share? A. \$10,073.26.

Q. 1905?

A. I haven't got it by years. I went from 1904 to 1914, at the first change of the fraction.

Q. 1904 you say how much?

A. \$10,073.26 In 1914 it increased on account of the raise [62] in taxes, in the different properties, to fourteen thousand six hundred and four dollars and ninety-three cents, and there is a still greater increase this year, 1919, increased taxation.

The COURT.—Are you familiar with the value of the stocks and bonds, the personal property owned by Mrs. Houghtailing?

A. Not in my mind. I would have to figure it out.

Q. Do you know the value of the stocks approximately?

A. No, I haven't figured it out at all—do you mean the market value or the present value?

Q. Approximately, have you any idea?

A. I couldn't say now. I haven't looked at the figures so long; I haven't figured it.

Mr. LARNACH.—I would suggest, Mr. Robinson, you bring into court a list of the stocks and other personal property that you have in your care, in 1904, showing any other changes up to 1919, please.

(Testimony of J. L. P. Robinson.)

The COURT.—In this list of properties is that Kalihi homestead included?

WITNESS.—No, this is only the Robinson properties in which she is interested; we had nothing to do with the Kalihi property.

Mr. WITHINGTON.—As I understand it, Mr. Andrews, James Robinson, Sr., left as his heir, James Robinson, Jr., and when he died he left a widow, the widow took one-half of one-ninth when Mrs. Allen—

WITNESS.—At the death of James Robinson, my grandfather, there was two children by a former wife, that is, James Robinson and his sister; there were really ten of them, but they came under the will; at special request she got an interest in the property; in other words, Mrs. Rebecca Houghtailing comes into this property through one of these children of the second [63] wife; she comes into the estate under her half brother or rather one of the half brothers' shares.

Mr. WITHINGTON.—That is her 144th, that is where it comes in (8x18).

Mr. LARNACH.—You have said before, that Mr. Mark Robinson, your father, was the agent of Mrs. Houghtailing; now, after his death—and had all these properties in his possession—after his death who followed him in that capacity?

A. I was appointed administrator of his estate.

Q. You acted as Mrs. Houghtailing's agent, didn't you?     A. Yes.

Q. Now, at any time while you were in the office

(Testimony of J. L. P. Robinson.)

with your father or while you were acting as Mrs. Houghtailing's agent, did you hear anything of what purported to be a deed from Mrs. Houghtailing to Daniel De La Nux?   A. No, I did not.

Q. And George De La Nux, Jr.?   A. I did not.

Q. Did anybody at any time make any claim to your office, either to you or to your father, so far as you know, regarding any claim under this purported deed that has been alluded to?   A. No.

Q. Were you ever informed by the gentleman sitting here, George De La Nux, that there was any such deed in existence?

A. What are you referring to, as to time?

Q. In which you, after you got in or before you got in as agent?   A. Not before.

Q. When was it that you were given any information regarding this supposed deed? [64]

A. I am not quite certain; it was after I turned it over to—I think it was after I turned it over to Steere.

Q. After you turned your agency over to Steere?

A. That I first became acquainted that there was some question about this deed to the property.

Q. Who gave you that information, Mr. Robinson?

A. Oh, I don't recall exactly.

Q. Do you remember anything about it before turning your agency over to Mr. Steere?

A. Yes, I think I did.

Q. Did you know of that deed before?

A. He spoke of it then; I didn't know of it before then.



(Testimony of J. L. P. Robinson.)

Q. Was that the first time you were informed of it?

A. I think so.

Q. And when did you turn your agency over to Mr. Steere?     A. 1916, I think.

Q. Therefore, prior to that date you had no knowledge of any deed made by Mrs. Houghtailing purporting to convey her interest to anyone else?     A. No.

(Recess.)

Mr. LARNACH.—Mr. Robinson, how did the tax values, the value that you have set forth in that exhibit already filed, how did those values compare with actual values?

A. Well, that is rather hard—simply under, I should say. We wouldn't sell out our properties for those figures, of course.

Q. So that the actual value is more than the value—tax values that you have set forth?     A. Yes.

Cross-examination.

Mr. ANDREWS.—Mr. Robinson, you have seen Mrs. Houghtailing [65] practically once a week, as I understand it, from 1901 until some time in 1916?

A. I will modify that statement a little, once a week and sometimes a little less frequently, but thereabouts.

Q. And at none of these times that she you speak about was she ever under the influence of liquor, as I understand it?

A. Not under the influence so that she could not navigate when she came into the office.

Q. At times, as I understood you to say, she showed

(Testimony of J. L. P. Robinson.)

the effects of drinking? A. Yes.

Q. That wasn't all the time, was it, Mr. Robinson?

A. No, there was some times she seemed to be rational, but mostly always.

Q. Now, was she rational at all times—did she understand what she was doing? A. Yes.

Q. And you say she consulted your father about practically all her business affairs, that is, as far as you knew, she always consulted your father about business affairs; is that correct?

A. Whenever she wanted any money she would come in and get it from my father, and as far as I know, there was no transactions exactly or any of her business, simply paying out her interest.

Q. Then all she had to do with either your father or yourself, she would come in to get money due or when possible get advances, whatever it was, simply money transactions?

A. Yes, I don't recall any actual transfer of property.

Q. So whatever business she did, if she did do any business at all, was done outside of your office, so far as your knowledge [66] is concerned; is that right? A. As far as my personal knowledge goes.

Q. And at all these times she knew what she was doing, but never had any very intricate conversations with her that would test her ability as to business matters, is that right? A. Yes.

Q. That sums up—my statement sums up practically your relations with her? A. Yes.

Q. Very simple; simply come in and ask for her

(Testimony of J. L. P. Robinson.)

money, and you would give it to her, and she would go out?

A. When she used to want more than her allowance we would have to argue with her, things of that kind.

Q. In all these matters, she knew what she was talking about, talked sensibly, didn't she?

A. Well, sensibly as anybody would after heavy drinking—something of that kind.

Q. Well, how many—can you give us how many times she appeared to be heavily drinking before coming?

A. I should say a number—pretty hard to say—when she would come into our office, in fact, you add from 1901 to 1916, fifteen years, I could not say how many times she was under the influence and how many times she was not.

Q. Well, she always made known what she wanted without any difficulty and understood what was going on, didn't she?     A. Yes, she always appeared to.

Mr. ANDREWS.—That is all.

Mr. LARNACH.—That is all. [67]

Mr. LARNACH.—At this time we will call upon the respondent, Mr. George De La Nux, to produce the deed that has been alluded to many times, due notice has been given counsel.

Mr. ANDREWS.—Here is the deed, but I don't remember any notice being given.

(Here follows testimony given by Mrs. Rebecca Houghtailing.) [68]

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

REBECCA HOUGHTAILING,

Plaintiff,

vs.

GEORGE DE LA NUX and DANIEL DE LA  
NUX,

Defendants.

TRANSCRIPT.

APPEARANCES:

A. E. LARNACH, Esq., and D. L. WITHINGTON,  
Esq., Attorneys for Plaintiff.

LORRIN ANDREWS, Esq., Attorney for Defend-  
ants.

Monday, June 16, 1919,—o'clock A. M.

**Testimony of Mrs. Rebecca Houghtailing, for  
Petitioner.**

Direct examination of Mrs. REBECCA HOUGH-  
TAILING, called and sworn, testified as follows:

Mr. LARNACH.—Your full name, please.

A. Mrs. Rebecca Houghtailing.

Q. Your age, Mrs. Houghtailing? A. 63.

Q. Where do you live, please?

A. At the present time?

Q. At the present time?

A. Kalihi, Kamehameha Fourth Road.

Q. How long have you lived there?

A. Twenty-four years, about.

(Testimony of Rebecca Houghtailing.)

Q. How long have you lived in the Territory of Hawaii?

A. Well, I was born in the Territory of Hawaii, that is, sixty-three [69] years, I think.

Q. You have lived in this Territory ever since you were born? A. Yes, Mr. Larnach.

Q. Now, where did you receive your early education? A. In the Sisters' school.

Q. Catholic sisters or the— A. Catholic.

Q. How long did you remain with the Sisters?

A. Seven years.

Q. About what age were you when you left the Sisters? A. Seventeen.

Q. Now, did you receive any further educational training after that? A. No, sir.

Q. Were you trained in business at all, Mrs. Houghtailing, at the Sisters?

A. No, sir; little music, that is all.

Q. Did you study bookkeeping at that time?

A. No.

Q. Never have understood bookkeeping?

A. No, sir.

Q. Never studied bookkeeping? A. No.

Q. Do you know anything about accounts?

A. Yes, a little bit, not anything extra.

Q. Keeping accounts? A. Of my own.

Q. Your own little affairs— A. Yes.

Q. Now, when were you married, Mrs. Houghtailing, what year were you married?

A. I was married when I was seventeen; I don't remember the year now.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. To whom?     A. To Mr. De La Nux.

Q. Where did you live? [70]

A. Kauai, Hanalei.

Q. How long did you live there?

A. I lived there, raised my three boys, lived there that long; I don't remember the years.

Q. Then did you come from there to Honolulu?

A. No; I made that son George, then I went to the coast and my husband, then I made the other two in Los Angeles, two of them boys over there (indicating in courtroom), Charles and Henry.

Q. Did you remain away from Hawaii very long?

A. I remained over there to make those two boys; then I came back; I think about seven years.

Q. Then you returned to Hawaii?

A. I returned and stayed until now.

Q. How many children did you have by Mr. De La Nux?     A. Three.

Q. You said George, sitting over there by his counsel—     A. Yes.

Q. Who else?

A. Henry, and one between Henry, but he died.

Q. Who else?     A. Charley.

Q. Now, Henry is in court; stand up (Henry stands up)—     A. Yes.

Q. That is Henry.     A. Yes.

Q. How old is he?

A. Thirty-seven; I don't remember exactly.

Q. How old is George?

A. My idea, about forty-six.

Q. How old is Charles? He sits there (indi-

(Testimony of Mrs. Rebecca Houghtailing.)

cating). A. He knows best; I forget.

Q. About thirty-seven? A. Yes.

Q. Now, has George any children? A. Yes.

Q. How many? A. Two. [71]

Q. What are their ages?

A. One is dead, and one is living; about fifteen years, I think.

Q. Yes, and what is the name? A. Daniel.

Q. Is the wife of George living? A. Yes.

Q. And her name? A. Lahapa.

Q. Has Henry any children? A. Yes.

Q. How many, if you please? A. Three living.

Q. What are their names?

A. Eddie, Charley and Daisy—Eddie, Charlotte and Daisy.

Q. How old is Eddie? A. Fifteen.

Q. How old is Charlotte? (Charley?)

A. Charlotte a girl.

Q. How old? A. Fourteen.

Q. How old is Daisy? A. Twelve.

Q. Was there any child, a girl, that was living in 1905, and has since died. A. Yes; Bathsheba.

Q. When did she die?

A. February of this year.

Q. How old was Bathsheba when she died?

A. Fourteen—nineteen.

The COURT.—How old is Charlotte, again?

A. Fourteen.

Q. How about your son Charley—has he any children? A. Yes.

Q. How old are they?

(Testimony of Mrs. Rebecca Houghtailing.)

A. One is twelve, eleven or thirteen—no, eleven.

Q. What is the name of that child? A. James.

Q. The other?

A. I have forgotten now, Johnny—

Q. How old is Johnny? A. I saw—I forget.

[72]

Mr. LARNACH.—Now, with whom do you live at the present time? By yourself, or with any of your children? A. One son.

Q. Which son? A. Henry.

Q. How long has Henry lived with you in his house?

A. All the time excepting a few months off and on, when he is down in the country at Waialua, but generally he is with me.

Q. And with Henry, and is wife *wife* with you?

A. Yes, wife and children with me.

Q. All live at your house?

A. Yes, they had their children in my house, all of them.

Q. All of them—

A. These four, of course one of them is deas now that leaves three.

The COURT.—Who did you live with in 1905?

A. With my son Henry.

Q. That is in 1905?

A. Always just go for a little while for three or four months and then come back.

Q. Whereabouts? A. Maunalua.

Q. Whereabouts were you living?

A. Kamehameha Fourth road.



(Testimony of Mrs. Rebecca Houghtailing.)

Q. Where was Charley living about 1904 or 1905?

A. Maunalua, come up with me too sometimes.

Q. Come up and stay at your house?

A. Yes, only lately, he had other business, had to go there to Castner, that is how he—they come to be away so long.

Q. How about your son George?

A. Never lived with me, only comes down from Hawaii, that is the time he is at Hawaii; now he is at Aiea; I mean since he [73] has been down there at Aiea, he has never slept at my house, that is, about ten years, good long while, I suppose; the reason is that he is angry, before when he lived in Hawaii he stayed with me until he goes home, that is how—

Q. Was that before 1905 or after? A. After 1905.

Q. That is your son George?

A. Yes, he was at Hawaii; then it is 1905 he was at Halawa, about that time.

Q. How about—where did you say your son George was in 1905? A. I think he was at Halawa.

The COURT.—Halawa, Hawaii?

A. No, over here, down at Aiea.

Q. In 1905?

A. Yes, 1905, that is, he has been there I don't know how many years, working for this plantation.

Q. When he comes to town does he stay with you?

A. No, he just stayed there to late hours and then goes home.

Mr. LARNACH.—Now, since 1905 has your son George visited your house?

A. Yes, comes and visits me, then goes home, as I

(Testimony of Mrs. Rebecca Houghtailing.)  
say, off and on, his wife sometimes with him.

The COURT.—The children come to your place sometimes?

A. Yes, they come to see me, then go home, but lately never come to see me for years.

Mr. LARNACH.—How long since they have never come to see you at your house?

A. This time they haven't seen me, a long time, ever since the case was started, didn't care to come and see me.

Q. Do you remember signing any deed, Mrs. Houghtailing? A. Yes.

Q. In which the name of George De La Nux, Jr., and Daniel De La Nux were mentioned, meaning your two grandchildren, the sons [74] of George, your own son?

A. I remember signing a deed in that respect, I didn't care what was the reason of the deed, because I trusted this boy.

Q. Which boy? A. George.

Q. Meaning your son?

A. I was thinking this homestead was the only thing he wanted. I didn't think he had more in the deed, and the reason why I trusted this boy, and I really did, he had been working around this and that, and I trusted him, I trusted the boy, and I told him, "Well, you take your choice; this is the place you want; you can have it," and it was all right, and we went down and I think the whole thing—I didn't think the whole thing was going to be put into this deed,—why should I?

(Testimony of Mrs. Rebecca Houghtailing.)

Q. You say we went down, who do you mean?

A. Me and my son.

Q. Anybody else?

A. Not that I remember, but I remember seeing his wife down there, not with us, near—

Q. Where did you go?

A. Went down to Correa's Office.

Q. Lawyer Correa's office?     A. Yes.

Q. Where was that?     A. By the postoffice.

Q. Merchants street Honolulu.     A. Yes.

Q. That old coral building?     A. Yes.

Q. What was done there so far as you can remember?

A. Went to the place where he told me, of course I had a little drink in me, not ony that, this child that I had, this boy I trusted, he was my eldest boy and I trusted, and I would trust him again, I would trust him he wouldn't do anything else to me like that, to me, I would give him this homestead, I told him the place was under mortgage, the Kalihi place was under mortgage, and "You will have to look after this," and he said, [75] "Yes," and I don't think I took the troubles to read the whole thing.

Q. Now, is that your signature? (Showing witness a deed, recorded on the second day of July, in the Registrar's office in Liber 328, pages 476-7.)

A. Yes, that is my signature.

Q. Did anyone tell you what this deed contained?

A. No.

Q. How did you come to sign such a deed?

A. Well, I think the deed was that place up there.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. What made you think the deed was for that place up there?

A. Because I was told that we come down, that he could take that place; I told him that he could have that place.

Q. You told him that? A. Yes, I told him that.

Q. That it was the place you were coming down to sign the deed for?

A. I told him it was for that place alone.

Q. Who told you to come down? A. My son.

Q. Meaning who? A. George.

Q. This gentleman here (indicating)?

A. Yes. I didn't think that boy would act, treat me that way, and I didn't—

Q. Didn't you intend to sign a deed giving George and Daniel, your two grandchildren, all your real and—your real property and all your personal property? A. I did not.

Q. You did not? A. I did not.

Q. Would you have signed such a deed if you had known that the deed contained any such provision?

[76]

A. I would not.

Q. Did you have any conversation with George about deeding this homestead to your two grandchildren? A. I did.

Q. More than once? A. Oh, more than once.

Q. Before the deed was signed A. Yes.

Q. Who suggested this office—Mr. De La Nux or yourself? A. My son.

Q. Meaning who?

The COURT.—Your son George?

(Testimony of Mrs. Rebecca Houghtailing.)

A. My son George.

Mr. LARNACH.—At the time this deed was signed, Mrs. Houghtailing, did you have any grandchildren, any of your grandchildren living in your house with you?

A. Yes, Mr. Larnach, I told you that I had four grandchildren in my house.

Q. Now, I want to find out whether any of those grandchildren living in your house at the time this deed was signed was George or Daniel?

A. These two do you mean, in the house? No.

The COURT.—Was George De La Nux, Jr., and Daniel De La Nux living at your house at that time?

A. No, your Honor.

Q. Whose children were they?

A. George and Daniel?

Q. No; whose children were living in your house at that time? A. My son Henry's children.

Q. Were there four or three at that time, 1905?

A. Four.

Q. Wasn't there one unborn at that time—Daisy wasn't born [77] at that time?

A. I forget; excuse me.

Q. At that time how many grandchildren were living there in 1905?

A. Three, because one is dead already now. No, two; one son and one boy; there was one child that died.

Q. Then one born after that? A. Yes.

Q. How about Bathsheba, the daughter of your son Henry? A. What about—

(Testimony of Mrs. Rebecca Houghtailing.)

Q. Was she living there with you?

A. Why, yes, I brought her up.

Q. Did you have any favorites?

A. That was the one—Bathsheba.

Q. She was living with you in the house at the time this deed was made?

A. Yes, I think she was in school; I forget.

Q. I mean the deed which Mrs. Houghtailing referred—has referred to and on which she has identified her signature, which I will introduce in evidence, as referred to by the witness in her testimony.

Received and marked Plaintiff's Exhibit "F."

The COURT.—You signed this deed in 1905, you remember that?

A. I don't remember the year, but I know I signed the deed.

Q. You had sugar stocks at that time?

A. I don't know what I had; only used to go and get money from Mr. Robinson; I know I had stocks; I don't know how much, this and that and where and what; I know I had stocks.

Q. After you signed this deed did you sell any sugar stocks?     A. No.

Q. Never sold any at all?

A. No; I just used to come and see Mr. Robinson; I wanted some [78] money at all; of course, I wouldn't go there under the influence; I tried hard to go there without any, sometimes I had a big head, and to-morrow I would go there trembling, but I tried hard so that they didn't smell anything on me, for if they knew it they wouldn't give me any money; I

(Testimony of Mrs. Rebecca Houghtailing.)

tried to brace myself up to get some money.

The COURT.—Sober up?

A. Yes, that is the way I got it; that is the way I used to do with Mr. Robinson.

Mr. LARNACH.—For how many years *have been* indulging in the use of intoxicating liquor?

A. That I can't remember; about thirty years, I think.

Q. Did you indulge to excess or moderately?

A. Oh, my! to an excess, of course.

Q. How often—every day?

A. Well, every day if I could get it; if I had somebody to go and get it, had it every day; if I didn't have anybody to go and *get* I couldn't get it.

Q. How did you obtain liquor,—did you purchase it or was it presented to you?

A. Most of the time purchased.

Q. Did any of your sons present it to you?

A. My son George used to make a present, used to come over there and drink with me, my son George.

The COURT.—What do you mean by presents?

A. I mean by bringing it down for me for nothing.

Q. He used to bring liquor to your house?

A. Yes, bring it over to the house.

Q. What kind?     A. Gin.

Mr. LARNACH.—Did your son George know of your weakness, know that you indulged to excess?

[79]

A. Yes, he thought he was doing it in a good way, he did; my idea was that maybe as I liked gin it was his duty, of his, to bring gin; maybe that is what he

(Testimony of Mrs. Rebecca Houghtailing.)

thought, being his mother was a drunkard, all that.

Q. Now, after this deed introduced in evidence, as Exhibit "F," was made to George's children, did George continue coming to the house with his family?

A. No, after this meeting, no.

Q. He did not? A. No.

Q. For how long a period after this deed was made? I mean after the deed.

A. You mean after the deed, you say?

Q. Yes.

A. After this trouble, I mean, it is after the suit, he didn't come to see me again, but after the deed, sure, he used to come to me once in a great while, but this time now it is still worse.

Q. When he came to see you after the deed was drawn did he bring any presents at any time?

A. A little fish sometimes.

Q. How about anything to drink?

A. To drink, he would drink; yes.

Q. Now, after this deed was signed by you did you have any trouble with Mrs. Lahapa De La Nux?

A. Yes; it was years afterward that we had trouble; she came over to the house with my son George in the evening and brought some gin with them; she says to me after a little while we had a drink, she says to me, "I am here to see you about *sometime*." I said, "What about?" "I heard you called my son a nigger." That is her son Daniel. I says, "No, I didn't call that grandchild of mine a nigger." "Oh, yes, I [80] heard it from some people, you called him a nigger." I said to her, "If you believe



(Testimony of Mrs. Rebecca Houghtailing.)

that, you believe it." I could not make her believe me, she believed what she heard, so we started arguing, throw stones at each other out in the yard, and then they went home.

Q. Now, did George or anyone else tell you whether or not this deed which you signed, meaning Exhibit "F," should be placed on record, Mrs. Houghtailing?

A. No, he didn't tell me, until I heard about it, but before this—thinking it was only the home at Kalihi I told him, I says, "Don't have this recorded," I says, "By and by the other boys will hear about this," giving it to him, so in order that the folks might not hear it; if they did they might be made with me, only after a while he thought he would go do it, anyway he went and done it without my knowing about it, without it coming out in the papers, but I didn't know anything about it until it came out in the papers and Mrs. Richards came and told me.

Q. Who told you?     A. Mrs. Richards.

Q. What did she tell you?

A. She told me it was recorded.

Mr. ANDREWS.—I object to that as irrelevant, incompetent and immaterial and hearsay.

Mr. LARNACH.—Now, did you have any conversation with your son George after that—after he recorded the deed?

A. We had it; that was the same night that we had the row—came all at one time.

Q. Was anything said about the deed there about its being recorded?

A. Mrs. Richards—I was under the influence of

(Testimony of Mrs. Rebecca Houghtailing.)

liquor; I don't exactly remember what was said that night. [81]

Q. After that row that you have just described did George continue coming to your house?

A. Not after this row; never come.

Q. Do you remember when you and Mr. Breckons and I went down to see George at Aiea?

A. I do.

Q. From the time you had the row after you discovered the deed had been recorded until you and I and Mr. Breckons made that visit to George down at Aiea did George come to your house?

A. No, he didn't care to see me any more, I guess.

Q. Now, you have said the only time that you could not get any—the only time you were sober was at the time you could not get any liquor; that is true? A. Yes.

Q. And you always sobered up to go to Mr. Mark Robinson's office to get money; that is true, isn't it?

A. Yes.

Q. What did you spend most of your money that you obtained from Mr. Mark Robinson or Mrs. Houghtailing? A. Liquor.

Q. Now, when did you first find out that in addition to conveying your homestead, the deed that we have alluded to which you signed, purported to convey all your property you had on earth, Mrs. Houghtailing, when did you first find out?

A. From Mrs. Richards.

Q. What did you do, if anything, how did you find out? A. From Mrs. Richards.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. What did Mrs. Richards say?

Mr. ANDREWS.—Object to that, if the Court please; it is hearsay and not binding—

The COURT.—When was that that you heard from Mrs. Richards? [82]

A. That was before the case started that was in 1916—(speaking to Mr. Larnach:) When did this case start, Mr. Larnach? I think it is two years before that, that is how I found out.

Mr. LARNACH.—1917 the case was filed, as I remember. How did you find out?

A. I told you Mrs. Richards told me, two years ahead before the case, this thing, was started, about 1916 or 1917; it was two years before that, I knew.

Q. Well, was any paper shown you, Mrs. Richards show you any paper, any copy of a deed, anything like that?

A. No, she told me—oh, now, let me,—the time I found out the time my son was with me and Mrs. Richards. Now, have you got that marked down, the date that I told you when he came up with his wife and brought me some gin and asked why I called her son a nigger? I don't remember the year then, the same night I found out, that same evening.

Q. What did you find out?

A. About the place being recorded.

Q. The deed being recorded?

A. Yes, about the deed being recorded.

Q. But how soon after you found out it was recorded—withdraw that last question. When Mrs. Richards told you, as you say, she did about the

(Testimony of Mrs. Rebecca Houghtailing.)

deed, did she show you any papers?

Mr. ANDREWS.—She has answered that she didn't show any papers.

Q. Did you ever have any papers shown to you by anyone?   A. Of the deed?

Q. Yes, purporting to be a copy of the deed?

A. No.

Q. Do you remember a man by the name of Joe Clark?   A. I do.

Q. Do you remember if he made any copy of any instrument for you purporting to be a copy of a deed? [83]   A. Yes.

Q. Wasn't it then that you found out?

A. I didn't care to look at it; I was drunk then when he came, just like nothing to me; I threw it aside on the trunk; I don't know where it is, so I don't know, so that anyway I didn't take no interest; it is from the time that my son and his wife was in that room; brought some gin and we had that row; that fellow he wasn't any good, what did he do, Mr. Larnach. It is this way, I won't talk, what is the use, after it has happened, recorded. Mr. Clark comes in with his papers, after my son had gone and recorded the deed, what was the use of these papers, huh? Well, isn't that the question you are asking me about?

Q. How long after recording of this deed were these papers shown you, a year or two years?

A. What Mr. Clark brought to me?

Q. Yes.   A. That I don't remember.

Q. You didn't take any notice?

(Testimony of Mrs. Rebecca Houghtailing.)

A. No, because it had already been recorded, no use wasting time for that, especially when I am under the influence of liquor.

Q. Did you ever conduct any of your own business, buying and selling property? A. No.

Q. Have you sold any stocks?

A. Nothing of any kind.

Q. Have you transacted any business yourself?

A. No.

Q. Have you ever told George that this instrument, meaning the deed, Defendant's Exhibit "F" (plaintiff's), wasn't according to your wishes? [84] No, I did not.

Q. Did you ever tell anyone, George or anyone, in George's presence, that this deed conveyed more than you intended to?

A. Yes, conveyed more than I intended to.

Q. Did you ever tell that to George?

A. I did not; I didn't let him know anything.

Q. Why not?

A. Why, I don't know why; you just cannot explain; I just cannot explain myself.

Q. Is it that you didn't?

A. I didn't expect him to do so, that is—

Q. After you found out that this deed wasn't what you expected it was what did you do, did you seek legal advice? A. I did.

Q. And did he—to whom did you go?

A. I forget now the first I went to, Mr. Larnach, my son actually was the one that got you; I was on Kauai at the time that my son Charley, isn't it right,

(Testimony of Mrs. Rebecca Houghtailing.)

I was at Kauai at the time; you can ask him, I guess.

Q. Why did you go to a lawyer?

A. To find out.

The COURT.—Did you go to any lawyer yourself?

A. It is so long ago now,—let me see; I don't think so.

Mr. LARNACH.—Don't you remember coming to the office with Mr. Larnach, going over to the office of Mr. Brackons?

A. Yes; I was thinking that I had got one before you, you know; that is what I was trying to think.

Q. Don't you remember engaging me and Mr. Breckons?

A. Yes, now, of course; I thought I had already engaged one before you, you know; come to think of it, I did not.

The COURT.—How long before you went to see the lawyers was it [85] that you found it wasn't straight, wasn't right?

A. Oh, it was long before I went to the lawyer, only just as a drinking person will do, just sat down and did nothing; no, it was a long time, like when I had my row with me son up at the house, I don't remember the year; I knew it from that time, but I didn't see—seem to move, or do anything.

Q. Why didn't you get a lawyer at that time?

A. I don't know, it was gin, taking a rest, like that, neglected, neglected.

Q. You thought more of drinking?

A. Yes, just like that.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. How much income were you getting at that time?

A. Well, one hundred, seventy-five, sixty, if I come in good shape he give me plenty of money, he looks at me too, to see how I am; if I am drunk he give me little.

Q. That is every week?      A. No, in a month.

Q. Sixty dollars a month?

A. When he could see my eyes all swollen only give me sixty dollars a month.

Q. Then when you were looking all right?

A. Looking *food*, two hundred dollars, two hundred and fifty dollars, like that, so I have to play smart with the old man.

Q. Where did you buy your liquor?

A. Lovejoy's, Peacock's, Brown; all the wholesale liquor stores, from old times until lately, until the prohibition law.

Q. What Brown?

A. Frank Brown on Richards Street, old Frank Brown, in the Campbell Block.

Q. You spent most of your money in buying liquor?

A. Yes, I wouldn't think about buying clothes; just liquor.

Q. When did you marry Houghtailing? [86]

A. I don't remember the year; I think it is about *sixt* or seventeen years ago.

Q. Before you signed this deed?

A. Oh, I was married before I signed that deed; living by myself I think; yes, I was living by myself.

(Testimony of Mrs. Rebecca Houghtailing.)

Mr. Houghtailing was dead years and years ago.

Q. He was dead?

A. He was dead, yes; it was only five years we were married, then he died.

Mr. LARNACH.—Now, after you employed me and employed Mr. Breckons, do you know if Mr. Breckons and I saw George and yourself, meaning Mr. George De La Nux here (indicating)?

A. Yes.

Q. Were you with us when we saw George?

A. Yes.

Q. Where did we see George?      A. Aiea.

Q. What was the reason of our taking that trip to see George, Mrs. Houghtailing?

A. It—you wanted to find out from me? The work was under you, you were doing it, it was you, being a lawyer, you must—you was going to do this and that already, you had to do it. All I had to do was to sit down and listen to your questions and answers between you and my son; it is really true; it was that two lawyers were there to do the business and I sat down and listened.

Q. What business was done there, Mrs. Houghtailing?      A. You ask, I remember all—

Q. Where did we start from, Mrs. Houghtailing, when you and I went down to Aiea?

A. From my house.

Q. From your house at Kalihi? [87]

A. Yes.

Q. Went down by automobile?      A. Yes.

Q. Who met us when we arrived at George's



(Testimony of Mrs. Rebecca Houghtailing.)

house, do you remember? A. His wife.

Q. Was she friendly or otherwise?

A. She was friendly.

Q. How did she show her friendliness?

A. Well, she started to cry and so did I.

Q. Did she—was she hospitable? A. She was.

Q. How did she show her hospitality?

A. She saw my weakness and asked me if I wanted a little gin, and I said “yes,” then she brought me some gin, and Mr. Breckons.

The COURT.—Did he have any?

A. He and my lawyer.

Mr. LARNACH.—Are you sure about Mr. Larnach?

A. Mr. Larnach didn't have any; he is too much of a missionary.

Q. Just before *we* left was there any more hospitality shown you, Mrs. Houghtailing?

A. It is all I could do; the bottle was there and I helped myself.

Q. You don't remember how many drinks were taken? A. No, I do not.

Q. Now, was there anything said about this deed down there by Mr. Breckons, myself and Mr. George De La Nux?

A. It was up to you and Mr. Breckons, so it is up to you to remember what questions were asked. I don't remember when I was under the influence of liquor.

Q. Who else was there, if anyone—you were intoxicated then a little bit? [88]

(Testimony of Mrs. Rebecca Houghtailing.)

A. A little bit; feeling good.

Q. Who else was there with us besides Mr. Breckons?

A. Mrs. Richards, I mean, and Mrs. De La Nux and Mrs. Charley De La Nux.

Q. Where is Mrs. Richards?      A. She is dead.

Q. Mrs. Charley De La Nux?

A. Yes, over there (indicating her in the courtroom).

Q. Mrs. Manuel Richards?      A. Yes.

Q. Do you remember a saloon-keeper by the name of Cockett?      A. I do.

Q. Do you know where he had his saloon?

A. Yes.

Q. Near your home?      A. Yes.

Q. Did you ever purchase any liquor from him?

A. I did.

Q. About how much per month?

A. I can't remember per month; it is very hard to remember that when the bill is sent up; I might say, it is sometimes, it is two or three hundred dollars.

Q. Two or three hundred dollars?      A. Yes.

Q. Was there anybody else in that vicinity that sold liquor, any storekeeper, anybody else?

A. Mr. Bodes.

Q. You purchased liquor from him?

A. Yes, on the sly, Sundays, like that.

The COURT.—Where is Bodes now?

A. He is dead.

(Testimony of Mrs. Rebecca Houghtailing.)

The COURT.—Here is Mr. Robinson now with the schedule.

(Mr. Robinson was here interrogated on the statement he prepared showing the value of the stocks and bonds, etc.)

Mr. LARNACH.—(Resuming.) Now, you stated you went to the office of Mr. Correa when you signed this deed, Mrs. Houghtailing; is [89] that correct? A. Yes.

Q. Where do you remember going from that office? A. Savidge.

Q. Was it on the same day? A. Yes.

Q. The COURT.—Did you read that deed before you signed it?

A. No, I didn't; I trusted *son* much on that son of mine.

Q. What did the son tell you at the time?

A. Expecting it was that for that place on Kamehameha IV road. *The* I told him that place was under mortgage; I said, "You have to pay the mortgage; it is under mortgage, on that place"; I was thinking of that place; it is all right, he was my son, and I only write my name down, because I trusted him so much.

Q. How about your son George, where was he when you were at Correa's office?

A. He was there.

Q. How about Mrs. Lahapa De La Nux, the wife of George? A. She was there.

Q. Did anyone ever give you the deed, place it in your custody?

(Testimony of Mrs. Rebecca Houghtailing.)

A. Mr. Correa just passed it to me, says, "You can—you know what is inside there," like that question, you know what all this is for, I said, "Yes"; I didn't take any time to look over it.

Q. Did anyone ever explain to you that it covered all the property that you had, both real and personal property? A. No, nothing; no.

The COURT.—The Court will take an adjournment until to-morrow morning at 9 o'clock.

Tuesday, June 17, 1919, 9 o'clock A. M.

Mrs. REBECCA HOUGHTAILING resumes the stand. [90]

Mr. LARNACH.—Who was there present when that deed was signed, Mrs. Houghtailing?

A. His wife was there.

Q. Meaning Mrs. Lahapa De La Nux?

A. Yes, Lahapa.

Q. Who else besides the wife?

A. That is all; myself, Correa, my son and his wife and I.

Q. *D* Four people present there? A. Yes, sir.

Q. And that was where?

A. In—that was in Mr. Correa's office near the postoffice.

Q. In Mr. Correa's office, I understand.

A. Yes.

Q. Where did you go if anywhere from there?

A. Mr. Savidge's office.

Q. Do you allude to Mr. Savide, the notary public?

A. Yes.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. What was done there, Mrs. Houghtailing?

A. They asked me if I knew what was inside, and I said, "Yes," thinking that—

Q. Who was present there?      A. His wife.

Q. Meaning Mrs. George De La Nux, or Lahapa?

A. Yes.

Q. Was George there then?

A. I don't remember.

Q. Was there any explanation made to you in the office of Mr. Savidge?

A. Asked me if I knew all what was in the paper, and I said, "Yes"; Savidge didn't take any trouble to read it, told me to put my name down.

Q. You were not told, as I understand it, that it comprised all your property?

A. I didn't know it was all; I thought it was all at Kamehameha [91] IV road, and I trusted my son, boy of mine.

Q. Coming back to that visit at Aiea with Mr. Breckons and myself—withdraw that. Did you pay anything to Mr. Correa for drawing that instrument?      A. No.

Q. Did you pay any money to Mr. Savidge for taking the acknowledgment?      A. No.

Q. Coming back to Aiea, on the visit you made there with Mr. Breckons and myself, do you remember any of the conversation there that, anything being said about anyone being "jigging"?

A. Of course I remember myself, I was jigging myself, a little bit, I remember a little bit. What I remember is that we went out there on purpose to

(Testimony of Mrs. Rebecca Houghtailing.)

make up with my son George, being as I heard that he had written to you, for us all to come down there and make a settlement between the mother and the child, so after we had gone down there I heard him say, "Mama, I will leave it all to you, leave it all up to you."

Q. Who said that?      A. My son George.

Q. Your son George, sitting over there?

A. Yes; and after I started to cry, and after the rest and my heart was sore at that time, so after we came home, then after that he changed.

Q. Who changed?

A. I came home with some idea that my son was going to do what was right afterwards; it is still the same thing, that change continues until now; we had to find out what is right and wrong, who is right and who is wrong; that is how the thing is.

Q. At the time the deed was signed, Mrs. Houghtailing, meaning the deed introduced in evidence, what property, what personal [92] property, such as furniture, jewelry and other things of that nature, did you have?

A. I don't still understand?

Q. At the time the deed was signed—      A. Yes.

Q. —by you, what property, personal property did you have, if anything?

A. At the time?

Q. Yes?

A. Then mention the chairs and all that?

Q. Yes, furniture?

A. Furniture, yes.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. Jewelry?     A. Yes, jewelry.

Q. About how much was that property worth, Mrs. Houghtailing?

A. The furniture is inside; I think it is worth over a thousand dollars; the pianola is worth over six hundred dollars; I think the rest is worth five hundred; call it twelve hundred dollars.

Q. That was furniture you had in your house, homestead?     A. Yes, the—still the same.

Q. That includes jewelry?     A. Yes.

Q. Now, you alluded yesterday to a copy of a purported deed that Joe Clark had given you at one time; do you know where that copy is?

A. You asked me—

Q. Yesterday you testified regarding a copy of an alleged deed that Joe Clark had given you?

A. Yes.

Q. Do you know where that copy is?

A. I got it around now; got it in my (bag).  
(Hands paper to Mr. Larnach.)

Mr. LARNACH.—This, I understand it, was the first time Mrs. [93] Houghtailing was informed of the truth—the true purport of that instrument that is on file.

Mr. ANDREWS.—There is no date on it.

The COURT.—Just for the purpose of showing that fact. It tends to corroborate her testimony, doesn't it?

Mr. LARNACH.—Yes, your Honor. We offer it in evidence.

The COURT.—It may be received and marked.

(Testimony of Mrs. Rebecca Houghtailing.)

Mr. ANDREWS.—We object to it as irrelevant, incompetent and immaterial.

Objection overruled.

Received and marked Plaintiff's Exhibit "H."

The COURT.—When did you get that copy of that deed?

A. After we had the row at the house, but I don't remember how many weeks or how many months after that; I remember we had a row up at my house.

Q. Was that 1910 or 1911? The original was recorded November 1910? A. It was after that.

Q. How long after that? A. 1911, I think.

Q. It was after July, 1910? A. Yes.

Q. How long after—short time afterwards?

A. Long afterwards.

Cross-examination of Mrs. REBECCA HOUGHTAILING.

Mr. ANDREWS.—Now, you say that Henry and Charles were living with you in 1905?

A. Yes, they were.

Q. What was Henry doing in the way of work?  
[94]

A. That I can't remember what he was doing, but he was working off and on, sometimes not working, and sometimes he was working.

Q. As a matter of fact, you were taking care of him, were you not, of him and his family, they were being supported by your money, taking care of the whole family; isn't that right?

A. Let me ask you this question, Mr. Andrews;



(Testimony of Mrs. Rebecca Houghtailing.)

isn't it a mother's choice if she wants to feed her children or not?

Q. Perfectly proper; we want to know the facts.

A. Of course when he was working, wasn't working, I was pleased to feed him. I am not going to let him starve.

Q. The same was true of Charles and his wife?

A. Off and on they were working, just the same, feed them when they were working.

Q. When they were not working you were *feed* all of them? A. Yes.

Q. What kind of work did Charles ever do at that time? A. Carpentering.

Q. What kind of work did Henry do?

A. Plumbing.

Q. Is Henry working now? A. Yes, he is.

Q. How long has Henry *beeing* working?

A. Seven months.

Q. Before this time and since 1905 right up to now he has not had any steady work?

Q. Both Henry and Charles are drinking men, are they not?

A. No, Charles drinks onces a year or so; that is, News Year's and Christmas, like that, and that is all.

Q. And about Henry?

A. Henry drinks whenever he feels like it.

Q. That is, whenever there is liquor to drink?

A. He is like his mother.

Q. George isn't a drinking man? [95]

A. No.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. George has always worked steadily ever since he has been a boy?

A. He always worked steadily, and I trusted the boy on that account; he always did.

Q. He has always taken care of his own family?

A. Yes.

Q. And has never lived on you?      A. No.

Q. You have never supported him as you have the other children?

A. No, but I am willing to support my children; I wouldn't let them starve.

Q. Now, then, *now then* you say you went to Correa's office, you knew Mr. Correa before that?

A. I did know him.

Q. He had done business for you before, hadn't he?

A. No, he didn't do any business for me; as a friend, I had some friends that was acquainted with the man, that is how I knew the man, in a friendly way, but no business way.

Q. Never handled anything for you?      A. Never.

Q. Sure of that?      A. Sure.

Q. Who suggested going down to Correa this time?

A. My son George.

Q. So George knew Correa?

A. I don't know if he did or not.

Q. He suggested going to Correa?      A. Yes.

Q. You are sure of that?      A. Yes, I am sure.

Q. You are sure you didn't go to Correa to consult with him after this paper had been drawn up finally,

(Testimony of Mrs. Rebecca Houghtailing.)

you and George went down there and they had it signed?

A. Yes. I went down with him and had the deed signed down at Correa's office. [96]

Q. That was the first time you had been in Correa's office about this matter?

A. I think so; I think that is.

Q. Now, on that day you were not intoxicated, were you?

A. A little liquor in me, I could not go without I wasn't intoxicated so that I was staggering, I could walk straight.

Q. Mrs. Houghtailing, do you remember after this suit was brought how you came down to my office with George and spoke to me about the matter?

A. Yes.

Q. And you were not intoxicated then, were you?

A. No.

Q. And you told me that this suit was being brought without your consent, that you wanted me to get the two lawyers to withdraw from the case, to have nothing to do with it, didn't want them to press it?

A. I remember your—I remember going down there, but there was a feeling in my head, being with my son in his house, he asked me this, but I was still inside,—I don't want to express myself, I mean, feeling.

Q. Didn't you tell me that, what I have just told you, that you wanted me to go down and stop the lawyers, didn't want them as your lawyers, and I told

(Testimony of Mrs. Rebecca Houghtailing.)

you I couldn't do that, and you suggested you wanted somebody to write a letter?

A. You *flks* yourself, you folks yourself did this to do that, I suggested to you to write the letter?

Q. Didn't you suggest to me to write a letter?

A. I,—you or my son did, or somebody in your—

Q. Mrs. Houghtailing, weren't you perfectly sober?

A. I was.

Q. You came down to my office and you told me that you showed me this paper, and you said this has been brought against my will. [97]

A. Which paper did I show you?

Q. The complaint in the case, which you were supposed—

A. I didn't have the paper there, I didn't have nothing.

Q. What did you say to me when you got down to the office?

A. It was my doing, I was there with my son; my son says, "He is my lawyer," and started to talk to me, you talked to me.

Q. What did I say?

A. You were trying to get me out of it, to have all on your side.

Q. What did you say and what did I say? Be fair.

A. Do you think I can remember anything, everything that you asked me.

Q. Didn't you tell me you didn't want the case go on, didn't want these lawyers, and I told you I couldn't do anything at all.

(Testimony of Mrs. Rebecca Houghtailing.)

A. If I had told you that you would have done that very quick.

Q. Do you mean to say that I wrote that letter?

A. No.

Mr. WITHINGTON.—She didn't say that.

A. Never.

Q. That is the letter that you wrote to your lawyers, isn't it?

A. I cannot say; I haven't got my glasses.

Q. Is that your handwriting? A. Yes.

Q. You wrote that letter yourself, then, to Mr. Breckons? A. Yes.

Q. Now, *did ' tell* you what to say?

A. No, you did not.

Q. You wrote that,—that is your own wording?

A. Yes, but this is Charley's letter; my son gave it to me.

Q. Your son gave it to you?

A. Yes, at his house. [98]

Q. Was that after you had seen, been in my office, or not?

A. After I had been in your office.

Mr. ANDREWS.—We would like to offer it in evidence.

Mr. WITHINGTON.—No objection.

Received and marked Defendant's Exhibit 1.

Mr. ANDREWS.—Now, then, after awhile you came back again to see me?

A. Yes, I went with my son George.

Q. You went there alone, didn't you?

A. I never went there alone.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. You told me, said, "I am in pilikia; they are making so much trouble for me; better tell them to change cancel the deed." Didn't you say that?

A. No, not alone; I went with him twice, I think.

Q. But both times you went with George you were very anxious that the case should be dropped, those two times you told me that, didn't you?

A. No.

Q. Don't you remember coming to my office alone afterwards and saying that you—words to this effect, I don't remember now, that you were in pilikia?

A. Never went there alone, Mr. Andrews.

Q. And that they were making so much trouble that I was to tell George to cancel the deed?

A. I didn't say that I told you; if I had told you that you would have done that very quick; you were working for him.

Q. Yes, that is, I was representing George. Now, all right. Now, you say the deed wasn't read to you?

A. No.

Q. The deed wasn't read to you and the reason why? A. Because I trusted my son. [99]

Q. Now, you say, testified, that there was some trouble between you and George's wife, Mrs. De La Nux, she accuses you of calling her child a nigger; when was that, what year?

A. I don't remember the year, but she came up to the house.

Q. How long after the signing of the deed was it, after the deed was recorded.

A. No, it was not recorded then.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. How long before it was recorded then?

A. Why, they came and explained the story, the fight in that evening, maybe two days after that thing was recorded, after two or three days, I don't remember; after that.

Q. I am talking about this row between you and Mrs. Lahapa De La Nux, you claim there was a row between you and Mrs. De La Nux?     A. Yes.

Q. When did that happen,—was that before the deed was recorded or after?     A. Before.

Q. How long before?

A. How long before we had the row?

A. How long before it was recorded did you have the row?     A. Call it two days, at the house.

Q. Two days before the deed was recorded?

A. We had a row, but after the row the thing was recorded.

The COURT.—A few days afterwards?

A. Yes (speaking in Hawaiian).

Mr. ANDREWS.—Did you tell your son George when the deed was signed not to have it recorded?

A. Yes.

Q. You were the one not to have the deed recorded?

A. Yes.

Q. What reason did you give? [100]

A. On account of my other two sons.

Q. They were living with you?     A. Yes.

Q. And you were afraid they would find out about that?     A. Yes.

Q. You didn't want them to find out about that?

A. No, because they would be mad with me; why

(Testimony of Mrs. Rebecca Houghtailing.)  
should I give my son George first before them?

Q. Now, Mrs. Houghtailing, as a matter of fact, didn't you before this time offer to George a number of times to turn over your property to him, saying you were disgusted with the way the boys were treating you, that is, ill-treating you?

A. I used to tell him, not only him, but everybody, my neighbors as well.

Q. That the other two boys were treating you bad?

A. That is, we would get mad with each other; it is through drink.

Q. They wouldn't work,—that was a great trouble?

A. They couldn't get jobs, that is how.

Q. And it was through drink that you three would quarrel?

A. I would quarrel with Henry most of the time; it is through drink.

Q. You would quarrel with Henry most of the time, through drink on your part?

A. He used to drink with me, too.

Q. How about Charles?

A. Charles he never drank only New Year's and Christmas.

Q. And you quarreled with both?

A. I quarreled with both, because I am always in liquor, that is why.

Q. Those are the times that you say that you went to George and asked him if you couldn't give him all your property to him—[101] you did tell—did you ever George—ask George if he wouldn't take your



(Testimony of Mrs. Rebecca Houghtailing.)

property, you couldn't do it after your death, that you wanted to deed the property to him, to take it after your death?     A. No.

Q. Never did?     A. No, sir.

Q. Never said that to anybody?

A. No, sir, I never said that to anybody.

Q. You never—

WITNESS.—This child of mine asked me first to give him a piece of property, the piece of property up there.

Q. Now, then, Mrs. Houghtailing, how did you tell us that you came to get hold—come to go to Mr. Larnach's office, you say your son Charles hired him, how did you come to go to Mr. Larnach's office, did you tell us yesterday that your son Charles hired him while you—you thought your son Charles hired him while you were on Kauai?

A. It is this way: my son wrote me on Kauai, he thought there was a good lawyer for me, naming his name, Mr. Larnach, of course he couldn't do otherwise—couldn't do anything until I returned home, so when I returned home and they advised this letter—this lawyer, that he was pretty good, so we went to see Mr. Larnach.

Q. Did he tell you he had seen Mr. Larnach?

A. That I don't remember.

Q. Did you go with Charles to Mr. Larnach?

A. No, I went myself with Mrs. Richards and another lady.

Q. Now, you say you used to run a liquor bill at Cockett's saloon?     A. Yes.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. That liquor wasn't drunk by you, was it? [102]

A. Why, anybody—how could I drink that only by myself?

Q. In other words, that was drunk by all the folks—

A. And friends, because I wouldn't have liquor if I didn't have friends to help drink it.

Q. Now, you say your furniture and jewelry was valued in 1905 at twelve hundred and fifty dollars; how do you know that?

A. I know it by my bills before, of course. Now, I didn't think it was coming in, going to come in court, so it is all destroyed, but the things are of that value, just as good as new, if people want to go and look at it.

Q. Now, you were not so intoxicated you didn't know how many things you bought, what the bills were?

A. How could I help seeing it every day I shouldn't forget—101—when I am passing around these things every day, intoxicated or not, around my furniture.

Q. Do—did you buy these things yourself, jewelry?

A. Well, of course, my uncle did, I was trying to get all the money from him to buy things with.

Q. Did you buy them yourself? A. Certainly.

Q. The furniture you bought yourself?

A. Certainly.

Q. Do you remember, you remember how much you paid for them? A. Yes.

Q. So that your memory hadn't disappeared?

(Testimony of Mrs. Rebecca Houghtailing.)

A. My memory can be good for half an hour, be half an hour good, I think.

Q. Now, do you know Mrs. Charles Edward Henry?

A. Do I know Mrs. Charles Edward Henry?

Q. You know her as Lizzie?

A. Yes, I know Lizzie. [103]

Q. She lived quite awhile at your house?

A. Yes.

Q. In Kalini?      A. Yes.

Q. She lived at your house when you were living with George in Aiea and his family?

A. Before that, and the time that we went with George.

Q. Now, during the time that you were living with George were you intoxicated at Aiea all the time, then?

A. I wasn't feeling very good, very good; I was intoxicated once in awhile, maybe twice a week or so; I could not stand liquor then because I was sick.

A. As a matter of fact, isn't it true you went to luaus and never were intoxicated or touched liquor, also these friends at his house in Aiea, never touched liquor at all?

A. I never went to any luaus down at Aiea; I was living with him.

Q. Do you know a man by the name of Richards?

A. Who?

Q. Westerbee?      A. I do.

Q. Do you remember going to luaus when he was present?

(Testimony of Mrs. Rebecca Houghtailing.)

A. No, I didn't go there; I was on a sick-bed; my son went there with his wife.

Q. How many times were you on a sick-bed while you were at Aiea?     A. Once.

Q. Well, do you remember going to any entertainment that Mr. Westerbee was there present?

A. No.

Q. Now, coming back to Lizzie; do you remember, do you, you were very sick and you thought you were going to die, and told him you wanted to see George?

A. Yes, I did. [104]

Q. You told her that you wanted George to change that deed so as to give him the property instead of giving it to all the children?

A. No, it is the same thing over and over again; I didn't ask that.

Q. What is that?

A. I did not; I wanted to see Charley, Charley wasn't there, I wanted to see all my children, but it isn't to give to George, all to that one, and the rest go without.

Q. You didn't tell him you wanted to change the deed, talking to her, telling her, that you wanted him to agree, to cancel the deed giving it to his children instead of to him all your property?

A. I think all my—why should he have more,—because he is good looking; he wants better living and all that, and still he wants all of it himself?

Q. Did you ever tell Mrs. Henry, in Mrs. Henry's presence there, telling the other boy, when you were quarreling with them that they were going to get

(Testimony of Mrs. Rebecca Houghtailing.)

nothing, that everything belonged to George?

A. No.

Q. Do you remember quarreling when she was there, you and Henry quarreling, both drinking, he said to you, accused you of giving everything to George, that is, you had given it to him because he was a good boy and not a drunkard, like that, anything to that effect?

A. I have never said anything to him; when I was in liquor I would say anything; is that the way a person thinks, is that the way a person talks when jigged? A person that talks that way is crazy.

Q. That was at the time that you had given this property to George? [105] A. What is that?

Q. When you were having these rows with Henry?

A. I am saying, when I was jigged I had a row with them; I didn't fight with my children unless under the influence of liquor.

Q. That you had given all your property to George, you didn't know what you were doing?

Mr. WITHINGTON.—Objects—

Mr. ANDREWS.—Didn't you in the presence of Mrs. Henry when you had a quarrel with your son Henry, he being drunk, that he accused you of not caring for him, and that he accused you of giving all your property to George? And you said, "Yes, that is right," George was the only one who is working boy, and you had left it all to him?

A. Didn't I explain to you when I was under the influence of liquor I may have said that?

Q. Do you remember saying that?

(Testimony of Mrs. Rebecca Houghtailing.)

A. I don't; he would say anything to me when I was jiggered, and he was jiggered, didn't know, he didn't know what he says, or anybody else under the influence of liquor.

Q. As a matter of fact, you didn't ever see George shortly after that time he was born until he was seven years old?

A. I didn't see any of them. It was just the same.

Q. But Henry and Charles were born in California, were they not? A. Yes.

Q. But George was born here in Hawaii?

A. Yes.

Q. When he was a small baby you left him with a Frenchman and went to the Mainland— A. No.

Q. Where did you leave George or take him with you? [106]

A. Yes, I took him with me.

Q. Took him to California? A. Yes.

Q. Did you keep George with you all the time in California? A. Yes.

Q. So he lived with you up to the time he was seven years old?

A. Lived with me as long as I was in California.

Q. And you lived seven years in California?

A. Yes.

Q. And George was with you all this time?

A. Yes; if he doesn't know it isn't my fault.

Q. When you came back to Kauai George was still with you? A. Yes.

Q. So it is not true when you came back to Hawaii, of going to Hawaii where he was living and asked

(Testimony of Mrs. Rebecca Houghtailing.)

him if he was working there afterwards, didn't he, on the island of Hawaii?

A. Sure he had grown up to be a man over there; he was with his uncle over there.

Q. Your uncle, De La Nux?

A. Yes, De La Nux.

Q. That is, your father's uncle?

A. The father's brother.

Q. And you came to Hawaii and asked him to come back and live with you?

A. Nonsense; how could I ask him to come when he was working, for him to be idle?

Q. Do you know Mrs. Morris Kauhane-Lucy?

A. Yes, I do.

Q. She was living in Hawaii in 1889?

A. Yes.

Q. And near where George was living?

A. Yes. [107]

Q. Didn't you go up there at that time and urge George to come down and live with you in Honolulu?

A. No, I went up there to see them married; they were to get married; I wasn't going to get him to give up his job, when he had a good job from Pauhau, why should I have him give up his job. I went there all right.

Q. In 1901 and 1902, do you remember the time when Mrs. Lucy Kauhane was at your house you had a conversation with George and you told George that you intended to give him all your property—all your property, and he said, "Why not divide it between all us brothers," and you said his brothers hadn't

(Testimony of Mrs. Rebecca Houghtailing.)

treated you all right, and you wanted him to have it?

A. No; can I ask you a question, please, Mr. Andrews?

The COURT.—You answer the question.

A. I said, “No,” Judge.

Q. Now, did you ever in the presence of Mrs. Lucy Kauhane ask George to come up when he was living at Aiea, to come up to town to get the deed signed so that you could arrange your property, you wanted to get it off your hand, off your mind?

A. No.

Q. Do you know George Richards?      A. No.

Q. Do you know George Richardson, or George Richards?

A. I don't remember, anyway, maybe I do know him by sight.

Q. Do you remember in the present in any third person of your having a row with Henry in 1916 and you told this man that Henry was fighting you because you had given all your property to George because the other children hadn't treated you right; that Henry was robbing you?

A. No, I don't remember.

Q. Do you remember this man, this Mr. Richardson or Mr. Richards, while you were living at Aiea, and you invited him [108] down there to come and see you, you don't remember anything of that?

A. No, I don't.

Q. That you, while living at Aiea, at George's house, you told him that you had given—told Mr.



(Testimony of Mrs. Rebecca Houghtailing.)

Richardson or Richards, you had given all your property to George because the other children hadn't treated you right and wanted him to meet George and see what a fine son you had?     A. I say, no.

Q. Do you know a man named Makaanai?

A. Yes, I know him.

Q. He lives in Aiea?     A. Yes.

Q. Now, while you were down in Aiea there he came to the house, George's house, didn't he?

A. Yes, always did come.

Q. Do you remember a conversation with him, talking to him, in which you said that George's brothers were against him, that they were very foolish and that you had been foolish, that you wanted George to have the property, that you were perfectly good, and happy and contented down there with George?     A. No.

Q. And you were staying down with George in house, his house, for quite awhile in 1916?

A. I did; I was sick at that time.

Q. You knew at that time this deed had been signed, you had signed this deed in which you had given all your property, or conveyed all your property to George's two sons?

A. No, I had no knowledge that all my property was conveyed because I didn't see the paper when it was made.

Q. This was in 1916 you were down in George's house, wasn't [109] it,—what year was it that you were down at George's house?

A. I don't know; must be 1916.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. Way back in 1911 you knew all about this deed, Joe Clark showed you a copy of it?

A. That was all through George, that was all in the paper, of my giving it to George; of course this Clark found this out for me, but this Clark showed me after a fight we had in the house; you ought to remember what year that was.

Q. You said the fight was just two days before you recorded the deed, that was July, 1910? Now, then, that is the time that Clark showed you this paper?

A. Yes, after the row that we had—

Mr. WITHINGTON.—I don't think that is fair—

Mr. ANDREWS.—Now, then, that was way back in 1910 Joe Clark showed you this paper,—you read it all through?

A. 1910, 1911, I don't remember.

Q. So this was—so then you knew it after that, this paper had those words in it, after Joe Clark showed it to you? A. Yes.

Q. After Joe Clark showed it to you? A. Yes.

Q. Now, then, in 1916 or 1915 you went down, went and lived with George a long time? A. Yes.

Q. At that time you didn't say anything to him about this paper, did you?

A. No, I didn't care to say anything.

Q. You never asked him, "Here, George, what did you do this for? This is what we meant to do?"

A. No, I didn't care to ask him; it would be only useless; I was under his control; it is not for me to go and talk to [110] him.

Q. You were under his control?

(Testimony of Mrs. Rebecca Houghtailing.)

A. I was living with him,—what can a mother do with a child by themselves?

Q. He never made you come down there, did he?

A. No.

Q. You wanted to go down there at that time, you wanted to live with him? A. Yes.

Q. You were not under his control any more than he was under your control, and you were his mother?

A. I thought so; I didn't want to bother speaking anything about it.

Q. Now, *do* you remember going to—when you were living with George, and the—and a guest a second time down there, calling him in and telling him that you wanted him to be your attorney in fact and take charge of your affairs? A. He asked me.

Q. And you didn't ask him? A. No.

Q. You didn't tell him you were sorry that this case had been started and you wanted it to be stopped, you wanted him to act for you? A. No.

Q. Did you go to see Judge Whitney about it?

A. Yes.

Q. Was George with you then? A. Yes.

Q. You never went to see Judge Whitney alone and tell him you wanted George to be your attorney in fact? A. I went there with him.

Q. Never went there alone and asked him to try and act for [111] you after Mr. Steere had been appointed, and have Mr. Steere removed?

A. I went with him, my son, not alone.

Q. How many times did you see Judge Whitney?

A. Only once.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. Only once?

A. I think it is only once; to the best of my memory, it is only once.

Q. I want to be fair with you? A. That is fair.

Q. Now, you say you never went to Judge Whitney's to get him to have Mr. Steere give you an accounting to find out where it is—complaining of Mr. Steere, finally you told Judge Whitney that you wanted Mr. Steere removed and your son to act in his place?

A. Well, I say, I should say that—that I went to Judge Whitney—

Q. Yes. I mean going to him several times in this matter—alone?

A. I went there once with my son, my son says for me to go and see the Judge, which we did, and said, "We better get the Judge to remove Mr. Steere"; we couldn't get along, we couldn't get any money, at least I couldn't, if Mr. Steere was out and he put in I might get money, but it is that way, I went with him.

Q. Who suggested having Mr. Steere removed?

A. My son George.

Q. And you signed a power of attorney?

A. I had no idea; I was stupid.

Q. You were stupid?

A. I was feeling stupid every time. [112]

Q. Do you mean to say that when you went to Judge Whitney's you were under the influence of liquor?

A. Not under the influence of liquor; I went up

(Testimony of Mrs. Rebecca Houghtailing.)

to Judge Whitney's and sat down, just sat down and took things easy, didn't want to bother my brain.

Q. Who did the talking,—George or you?

A. We both spoke.

Q. Who did most of the talking, who told Judge Whitney what you wanted?     A. I did.

Q. So at that time you did want your son made attorney in fact for you; is that right?

A. In that way, so I would get the money.

Q. This is what you signed, isn't it? (Handing witness a document.)

A. Yes.

Mr. ANDREWS.—We offer it in evidence.

Mr. WITHINGTON.—No objection.

The COURT.—It may be received.

Received and marked Defendant's Exhibit "Two."

Mr. ANDREWS.—Did you tell Judge Whitney that your son George had got you to sign a deed and which you didn't know anything about?

A. I didn't tell Judge Whitney. I told nobody until, of course, after that thing was found out at home, then that is the time.

Q. Found out by your two sons, you mean?

A. After the row that night and everything, that is how I found out everything; then everybody knew.

Q. Everybody knew how it—

A. From neighbors.

Q. Who told the neighbors? [113]

A. I did.

Q. So you did complain to your neighbors?

A. I did.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. But you never complained to George or his family?

A. I complained to the neighbors, why did my son do that—all.

Q. And you never said anything to George about it?

A. No, I never said anything to George; I thought he ought to know himself; he never owned up until now we get into court.

Q. So in spite of the fact that your son George had tricked you that way you were very much hurt to think that George would do anything like that?

A. I didn't expect a child like him—

Q. In spite of that, in spite of being very sore you still went to Judge Whitney, you still wanted George to—made your attorney in fact and control all your affairs; is that it?

Mr. WITHINGTON.—I don't think *tha* general statement is a fair statement of the witness' testimony.

Mr. ANDREWS.—Withdraw it. Despite the fact—in spite of the fact that you felt hurt and sore that George had tricked you, you were perfectly willing to have him made your attorney in fact, and control all your property?

A. What could a mother do, if he asked? I was just doing this for cowardness; it wasn't my real feeling.

Q. You have gotten all over your cowardness now, haven't you?

A. It is cowardness; might as well say so, say it.

(Testimony of Mrs. Rebecca Houghtailing.)

Q. You haven't any cowardness now,—you have gotten over that now, haven't you?

A. Well, I am supposed to feel the way a mother should feel towards her children. [114]

Q. Towards your other children now, Henry and Charles?

A. Towards all of them equally, why shouldn't I. I haven't any sore feeling towards him, maybe he has towards me because I am speaking the truth, he may have a grudge against me, but I haven't any against him.

Q. You were perfectly willing—withdraw that.

That is all.

Redirect Examination of Mrs. HOUGHTAILING.

Mr. LARNACH.—Mrs. Houghtailing, did you go to George's house to stay before this deed—before this visit that you and I and Mr. Breckons and yourself made to George's house, or was it after that visit that you went to stay with George?

A. After the visit.

Q. Prior to that visit how long was it that you had gone down to Aiea to see George, in other words, how long had you ceased being on visiting terms with George?

A. Well, after that I went down there and stayed two months, I think.

Q. But before that visit how long was it that you had been to see, to visit George or George see you?

A. Oh, it was years; he never come down to see me.

Q. At the time you had the row, the big row you

(Testimony of Mrs. Rebecca Houghtailing.)

have talked about, George was in your house?

A. Yes, the time of that row, the time we went to visit him with Mr. Breckons, that was a good many years between.

Q. Now, after Mr. Breckons and I had taken you down to Aiea you went down to stay with George, was that at your suggestion or George's suggestion?  
[115]

A. My own, I didn't feel well, I thought I would take a little vacation down to his house.

Q. It was while you were staying with George at Aiea after that visit of Mr. Breckons and myself and others, that you went to Judge Whitney's office?

A. Yes.

Q. Now you still had Mr. Breckons and Mr. Larnach as your attorneys?     A. I did.

Q. Did you tell Judge Whitney that you had attorneys advising you in this matter?

A. I don't remember, Mr. Larnach.

Q. Mr. George De La Nux your son knew that didn't he, that you had attorneys?

A. I think I said that I had attorneys, I have forgotten, I forget to tell him, maybe I did state that, I don't remember.

Q. Mr. George was there present when Mr. Breckons and Mr. Larnach called on him with you, wasn't he?     A. Yes.

Q. Now, did you tell Mr. Andrews when you made that visit to his house that you had attorneys, Mr. Breckons and Mr. Larnach?



(Testimony of Mrs. Rebecca Houghtailing.)

A. I think he know before I told him, I don't think I told him.

Q. After you told him that you still continued to visit Mr. Andrew's office did you?

A. I went there twice with my son, if any more than that I don't remember.

Q. Now, you stated that Mr. Andrews didn't tell you what to say what to write in your letter, did anyone tell you what to say, include that in your letter to Mr. Breckons?     A. My son. [116]

Q. Who do you mean by that?

A. My son George.

Q. Told you what to say in your letter to Mr. Breckons?

A. He had it written out on a piece of paper at night-time ready.

Q. At that time didn't you have Mr. Larnach as your attorney?     A. Yes.

Q. Then you wanted to discharge Mr. Breckons and keep Mr. Larnach?

A. That was the intention of the letter.

Q. Was it also George's intention that Mr. Breckons be discharged and Mr. Larnach still kept, that was the idea, was it?

A. I really couldn't make out what it is, it is all mixed up doings.

Q. Did you direct any letter of this nature to Mr. Larnach similar to the one that you wrote to Mr. Breckons, send me a similar letter on the same subject?     A. I don't think so.

(Testimony of Mrs. Rebecca Houghtailing.)

The COURT.—You say your son wrote that on another piece of paper?

A. Yes, because he had no time.

Q. Was it written in English by him?

A. Yes, written in English.

Q. Just copied? A. Yes, in my handwriting.

Mr. LARNACH.—Who mailed that, you or your son, meaning the letter you wrote to Mr. Breckons?

A. I think it was me, not my son, I put it in the mail, he had no time to do it.

The COURT.—Why did you sign that power of attorney before Judge Whitney? [117]

A. He asked me to get him discharged—

Q. Who? A. George.

Q. Is that why you signed this power of attorney before Judge Whitney?

A. Not for Judge Whitney.

Q. This power of attorney, you appointed your son your agent? A. Yes.

Q. Didn't you sign that power of attorney before Judge Whitney? A. Yes.

Q. How did you come to sign that?

A. He asked me to come there and sign it.

Q. Who did? A. My son.

Q. Why did you say yes?

A. That is a question I cannot answer.

Q. Did you want to sign?

A. I wanted to and I didn't want to, just act this way (indicating) really I can't tell you what was the meaning in that time, I can't express, honestly to God, which way it was.

(Testimony of Mrs. Rebecca Houghtailing.)

Mr. LARNACH.—Where were you living when you signed that power of attorney A. Kalihi.

Q. Were you still visiting George?

A. Well, I came from his house that day, I was still out there.

Q. That is what I mean, where were you staying on the day on which you signed that power of attorney?

A. With him.

Q. Meaning your son George? A. Yes. [118]

Q. At Kalihi or Aiea? A. At Aiea.

Q. Now, about how long before you came to the office of Mr. Larnach and engaged him as your attorney did Joe Clark bring to you a copy of that deed that we have introduced in evidence?

A. I cannot remember now, Mr. Larnach.

Q. Was it a year or two, can't you give us some idea?

A. Before a year I think, it wasn't a full year.

Q. You do not think it was a full year? A. No.

Q. That is your best recollection?

A. That is my best recollection.

Mr. LARNACH.—That is all.

The COURT.—Were you drinking at that time?

A. Still drinking.

Q. You have quit drinking have you not altogether now?

A. I quit when I don't get it, but you know there is some sly things around here, I can get something out of it, some selling on the sly, I can get some, when I get some I take it, blind pigs as you call it.

(Testimony of Mrs. Rebecca Houghtailing.)

Recross-examination.

Mr. ANDREWS.—On this question of this deed, when you got this Clark matter, did I understand that your best recollection is that it was a few days after the quarrel or a few days before the quarrel?

A. After.

Q. But it was a very short time after the quarrel?

A. Yes, sir.

Q. And the quarrel took place two days after it was recorded.

The COURT.—Two days before the quarrel—before recording.

WITNESS.—You know it too (to Mr. Andrews) you want to make me say something. [119]

Mr. ANDREWS.—No, I don't.

WITNESS.—Sure you do, Mr. Andrews.

Mr. ANDREWS.—That is all.

Mr. LARNACH.—That is all.

(Here follows testimony given by Mrs. Mollie Cockett.) [120]

### **Testimony of Mrs. Mollie Cockett, for Petitioner.**

Direct examination of Mrs. MOLLIE COCKETT, called for petitioner, sworn, testified as follows:

Mr. LARNACH.—What is your name, please?

A. Mrs. Mollie Cockett.

Q. Where do you live? A. Kalihi.

Q. Right here in Honolulu? A. Yes.

Q. How long have you lived at Kalihi here in Honolulu?

A. I lived there about, very nearly twenty-one

(Testimony of Mrs. Mollie Cockett.)

years, I think, twenty-one or two years.

Q. Have you known Mrs. Houghtailing during that time? A. All that time.

Q. How far from the residence of Mrs. Houghtailing do you live?

A. Right now I live about, oh, I don't know, say, two blocks.

Q. Are you on visiting terms with Mrs. Houghtailing? A. Yes, always been.

Q. And have been all the time during that period of twenty or more years that you have lived there?

A. Yes.

Q. Do you visit, or did you visit Mrs. Houghtailing often or infrequently? A. Quite frequently.

Q. What has been your practice covering a period of the last twenty years, have you been a frequent visitor at the house of Mr. Houghtailing, or infrequent? A. Frequent I might say.

Q. Does she ever visit your house?

A. Yes, she has.

Q. And has she visited your house during that period last [121] set forth, twenty or more years?

A. Yes.

Q. What have you to say regarding Mrs. Houghtailing's habits as to sobriety in particular?

A. I don't think I have ever known her to be entirely free from the influence of liquor.

Q. Covering a period of what time?

A. As long as I have known her.

Q. How does that affect Mrs. Houghtailing, the use of liquor, in the manner you have described, is

(Testimony of Mrs. Mollie Cockett.)

she boisterous, or please describe how it affects her?

A. Well, there is times when she is very quarrelsome, there are times when she is quite affectionate, there are times she is very easily led, there are times when she is very stubborn.

The COURT.—And times when she is down and out?

A. Yes, there are times when she is down and out, very often quarrelsome.

Mr. LARNACH.—Do you know where Mrs. Houghtailing used to get her liquor, during any of that period you have just described?

A. Before, my husband had a saloon, she used to get it from the corner store the Portuguese had.

Q. Do you know how often she would go down to the corner store for that purpose?

A. As often as she needed it, as soon as one bottle was empty or demijohn perhaps.

Q. How do you know that?

A. Because we were near neighbors and saw it.

Q. Were you living much nearer at that time?

A. Living very much nearer at that time, I was—

Q. Right next door?

A. No, but used to go right past our place. [122]

Q. Living above, how near?

A. Right around the corner, living where Mrs. French's is now. We had to come down to the corner there and catch the bus; there were no cars running, and very often she was—she or her son Henry was there, we would meet her at the store, or on the road or at home.

(Testimony of Mrs. Mollie Cockett.)

Q. Did you ever go to her place and spend some time?     A. Yes.

Q. How long would you stay at different times?

A. They were friendly calls, I didn't visit her any long time, that is, to stay with her.

Q. Did you ever spend the afternoon?

A. Very often, far into the night at times.

Q. During your visits there have you ever seen Mrs. Houghtailing under the influence of liquor?

A. Yes.

Q. To any great extent?     A. Yes.

Q. To what extent?

A. I have put her to bed often.

Q. Now do you know, when your husband was keeping a saloon in Kalihi, where Mrs. Houghtailing obtained liquor?

A. From the saloon, my husband's saloon.

Q. Your husband's saloon?     A. Yes.

Q. How much liquor did she get, how much per week or per month, can you give us any idea?

A. Oh, dear, it was every day, gallons, and bottles of beer; there was only a beer and wine license.

Q. Do you know what she did with that?

A. Drink it, I suppose.

Q. Were you over there when she was drinking?  
[123]

A. During the time my husband had a saloon I didn't visit her so frequently, but I did have to take her home frequently, often, she used to come down to my store, I lived right next to the saloon.

Q. Take her home frequently?     A. Yes.

(Testimony of Mrs. Mollie Cockett.)

Q. What condition was she in when you took her home? A. I would have to steer her.

Q. Was she in a condition so she undressed herself, got in bed herself?

A. Sometimes, most of the time I have had to put her to bed. I didn't undress her, she slept in her clothes, I never undressed her.

Q. Now, did any of her sons live with her, Mrs. Houghtailing, in the house, at the house in Kalihi when she was under the influence of liquor?

A. Henry and Charley were with her off and on most of the time, most of the time one or both boys were with her.

Q. Have you ever seen George De La Nux at the house at Kalihi?

A. Yes, that is where I think I first met him, then he came to the house with his mother.

Q. Do you know whether or not Mr. George De La Nux drinks?

A. Well, he didn't drink very much, he accompanied his mother, but didn't drink as much as the other two boys.

Q. Have you ever seen him drink with his mother?

A. Yes, at my house.

Q. At that time was Mrs. Houghtailing under the influence of liquor? A. She got some.

Q. How about George?

A. No, he didn't show any signs of it. [124]

Q. Do you know anything about the feelings of Mrs. Houghtailing towards her children,—the children of George, Henry and Charley?



(Testimony of Mrs. Mollie Cockett.)

A. Well, the day she came with her son George, she had been, or she had especially, she had been drinking the day before, and wanted something the next day, they both came—the day before they came to my place, the mother had been drinking, the son was with her on a visit, I think, and they came to the house, and she wanted some more liquor, some more drink, and he went down to the saloon, if I don't make a mistake, he bought a bottle of gin, and she told me that she liked to have George with her because he never objected to her drinking, while Charley and Henry they always objected, and there would always be a row when she drank even though the other boys drank too, when they would try to stop her, but George was very good, never stopped her, let her have it, never quarrel with her.

The COURT.—When was that?

A. It was during the time that beer and wine license—

Mr. LARNACH.—How many years ago?

A. I really can't remember.

Q. Prior to—

A. It was during the time the wine and beer license was in vogue, then it hadn't been very long then they allowed the license to have stronger liquors, then after that they shut them down.

(Recess.)

Mr. LARNACH.—Do you remember a grandchild of Mrs. Houghtailing's named Kulumanu?

A. Yes.

Q. Do you know where Kulumanu lived? [125]

(Testimony of Mrs. Mollie Cockett.)

A. She is always with her grandmother, Mrs. Houghtailing.

Q. Rebecca Houghtailing? A. Yes.

Q. Did Mrs. Houghtailing appear to be very fond of her? A. Very much so.

Q. A daughter of Mr. De La Nux—

The COURT.—Bathsheba?

WITNESS.—Yes.

Mr. LARNACH.—How long do you think Bathsheba lived with Mrs. Houghtailing—how many years?

A. She brought her up as—

Q. Is Bathsheba living or dead now?

A. She is dead.

Q. Died how long ago?

A. Not very long ago, I don't think it is a year.

Q. Do you remember how old she was when she died?

A. She died within a few days of her nineteenth or twentieth birthday.

Q. Now, what was Mrs. Houghtailing's appearance covering the period that you have testified concerning her, did she appear to be lively, appear to know what she was doing, please state what her appearance was?

A. She appeared to be in a dazed condition most of the time.

Q. Have you any idea of the amount of credit or cash purchases made during any month from your husband by Mrs. Houghtailing, purchase of liquor?

(Testimony of Mrs. Mollie Cockett.)

A. Yes, I think her bill used to run up as high as eighty dollars a month.

Q. Did Mrs. Houghtailing ever express in your hearing any particular regard for any particular family of her sons, or any individual in the family of her children? [126]

A. No, she always expressed to me that Henry was her favorite son, and Bathsheba her favorite grandchild.

The COURT.—Did you ever observe the children of George at her place?

A. They very rarely visited each other; I don't think that George was always on good terms with his mother, it was only that once or perhaps twice that he was at my place, that was when he was on a visit to his mother's.

Q. Did you see his children at that time?

A. No, he was alone.

Q. Did you ever see his children there with the family?

A. I think once I saw the children, I saw one or two boys there, and I inquired, and I was told they were George's children, I think they came from the Kamehameha school.

Q. Did you ever hear her talk about these two children of George's?

A. No, oh, she let me know that she had two grandchildren, that she had children, but not on very friendly terms.

Mr. LARNACH.—That is all.

(Testimony of Mrs. Mollie Cockett.)

Cross-examination.

Mr. ANDREWS.—How long did your husband have that saloon?

A. It was when the wine and beer license was first issued.

Q. Do you remember what year?

A. I can't remember the date.

Q. Do you remember how—remember first that they had a beer license, beer saloons?

A. Yes.

Q. Was that after that?

A. What is that?

Q. First they had their beer saloons, then a light wine and beer license? [127] A. Yes.

Q. Did your husband have only a beer saloon or had his saloon after the light wine and beer license *when* in? A. I am not certain of the year.

Q. It was 1903 or 4?

A. Somewhere around there.

Q. First they had these little beer saloons—

The COURT.—(Interrupting.) Have you any children?

A. Yes.

Q. Have you any about fifteen years old?

A. My youngest one is just about that.

Q. How old is he now?

A. My oldest boy will be seventeen in February.

Q. Now did your husband have a license at the time that boy was born? A. No.

Q. Before the boy was born?

(Testimony of Mrs. Mollie Cockett.)

A. No, the time the boy was born the license was not issued.

Q. After the boy was born the license was issued?

A. Yes.

Q. How old was the boy then when your husband got his first license?

A. I know my little girl, seventeen years old, was two years old when he got the license.

Q. She was two years old when your husband got his first license?

A. Yes, about two or three.

Mr. ANDREWS.—Mrs. Cockett, Henry and Charles always lived with their mother, didn't they?

A. Yes.

Q. During those days? [128]

A. Yes, off and on.

Q. Did they ever own their own home, that you know of, that is, the first time your husband had a license and you visited the house?

A. Well, I have always known of them as long as they were old enough to marry and have wives, they did have their homes.

Q. Where were their homes? A. At Maunalua.

Q. Both of them? A. Both of them.

Q. This was about 1903, 4 or 5, about the time that you say your husband got his license?

A. I don't know whether they were married or not, I expect it must be during that time.

Q. And Henry and Charles were both drinking then?

A. Well, Henry drank more than Charles.

(Testimony of Mrs. Mollie Cockett.)

Q. They both did drink as well as their mother?

A. Certainly, they drank about as much as their mother.

Q. Did you ever become—ever present when the three of them were intoxicated?

A. No, perhaps I was.

Q. Did you ever hear of any quarrels between them? A. Yes.

Q. Henry and Charles and their mother?

A. Yes.

Q. When they were all three intoxicated they would all fight? A. Yes.

Q. Now, you say that Mrs. Houghtailing brought up Bathsheba from a little baby? A. Yes.

Q. Ever since she was a small baby she lived with Mrs. Houghtailing? [129] A. Yes.

Q. And Mrs. Houghtailing was her mother, practically, is that correct? A. Yes.

Q. Well, then, Mrs. Houghtailing was in good enough condition to look after this baby, look after her as a small child, wasn't she, knew what she was about?

A. She didn't have the actual care of the children, of the child, that is, as far as washing the clothes, things of that sort.

Q. What do you mean, that she brought her up?

A. She raised her in the family, she is the one that actually supported the child.

Q. During all this time that Bathsheba was a small baby did the mother of Bathsheba live at Kalihi with Mr. Houghtailing?

(Testimony of Mrs. Mollie Cockett.)

A. Off and on.

Q. Well, then, when you say she brought her up, it was only off and on that Bathsheba was at the house?

A. Certainly not, is that what you understand me to say when I say she brought her up?

Q. That is what I want to know, you said now her mother and father were only off and on living at Kalihi? A. Yes.

Q. Then the child was only living there off and on? A. No, Mrs. Houghtailing had her always.

Q. That is, regardless of where her father or mother lived, the child was there with Mrs. Houghtailing all the time? A. Yes.

Q. She was capable of taking care of her?

A. She had servants. [130]

Q. Well, she was capable—was she capable of taking care of herself?

A. I say she was capable of—she brought her up to womanhood.

Q. And she never was in such condition that you refused to sell her liquor? A. I?

Q. Your husband?

A. Why, certainly, he was in the business to sell it.

Q. Whenever she came and bought liquor she was furnished it? A. Yes.

Q. Good enough condition then to be able to purchase liquor, that is correct, is it? A. Yes.

Mr. ANDREWS.—That is all.

(Testimony of A. G. Correa.)

Mr. LARNACH.—That is all.

(Here follows testimony given by A. G. Correa.)

[131]

**Testimony of A. G. Correa, for Defendant.**

Direct examination of A. G. CORREA, called for defendant, being sworn, testified as follows:

Mr. ANDREWS.—Mr. Correa, what is your profession?

A. Attorney at law.

Q. When were you admitted to practice law?

A. February, 1896.

Q. In the Territory of Hawaii?

A. In all the courts of the Territory of Hawaii.

Q. Since that time you have practiced your profession continuously? A. I have.

Q. Do you hold any position at the present time?

A. Deputy county attorney of the county of Hawaii.

Q. During the year 1905 where were you practicing law? A. City of Honolulu.

Q. And prior to that time did you know Mrs. Rebecca Houghtailing? A. I did.

Q. How well do you know her?

A. A considerable time prior to 1905 I knew Mrs. Houghtailing well; I became acquainted with her through her husband, Mr. Houghtailing, who was a client of mine, of Charles Creighton and myself, of the firm of Creighton and Correa, and subsequent to the death of Mr. Houghtailing I continued to act for



(Testimony of A. G. Correa.)

Mrs. Houghtailing in various and numerous matters.

Q. And this continued right up, up to the year 1905?

A. Yes, sir, as near as I can state from memory.

Q. So that she had consulted you on a number of matters prior to the year 1905, July, 1905? [132]

A. Yes.

Q. On legal matters? A. Yes.

Q. I hand you exhibit "F," defendant's (plaintiff's) exhibit "F"—and ask you if you recognize that.

(Hands witness plaintiff's exhibit "F.")

A. This deed I drafted myself at the instance of Mrs. Houghtailing.

Q. Do you remember whether she was present alone or with anybody when she gave you instructions for this deed?

A. My recollection is that she was alone.

Q. Do you remember her giving you instructions in the matter? A. I do.

Q. Does this deed follow the instructions that she gave you at that time?

Mr. WITHINGTON.—I object to that, calls for a conclusion of law.

The COURT.—Objection sustained.

Mr. ANDREWS.—Do you remember the conversation which you had with Mrs. Houghtailing or the gist of it before drawing this deed?

A. I could give you the gist of it as near as I can recall.

(Testimony of A. G. Correa.)

Q. Yes?

A. Mrs. Houghtailing came into the office—I had an office then next to the postoffice, in the office before that time occupied by Mr. Vivas. What her reasons was was not clear in my mind, in any event, she came in and told me that she desired to deed some property to one of her sons; at that time I only knew, as near as I can recollect, one of the sons, which one I cannot tell you; I see there is about two or three of them in here. No, I cannot tell which one. I then told her, “Well, if you want to deed this property over to your son, [133] well and good, you can do for a dollar or five dollars’ consideration and love and affection.” She acquiesced in that, and in accordance with her instructions the deed was drafted.

Q. After this deed was drafted—it was to two of her grandsons?

A. As near as I can recall now, I cannot recall.

Q. You do not remember that part of it?

A. At that time I only knew one of the boys, I cannot tell you now, it is so long ago.

Q. Was it signed the same day that you drafted it?

A. No, it was not.

Q. Do you remember whether it was any length of time or shortly after that she signed it?

A. Judging from the deed, the effect of it, it was signed some time afterwards; she came into the office some time later. Now, I cannot tell you the dates or the months, the simple reason, unless I refresh my recollection from that. I then directed her to Mr. William Savidge who did all my notarial work.

(Testimony of A. G. Correa.)

Q. This second time she came in do you remember whether anyone was with her?

A. I believe one of her boys was with her.

Q. And do you remember whether or not the deed was read to her?

A. The deed was read by myself to her and explained to her.

Q. And then you sent them over to Savidge, that is all you knew?      A. That is all I knew.

Q. On either of these occasions was Mrs. Houghtailing under the influence of liquor?

A. Absolutely none.

Q. You had known her a long time? [134]

A. Yes, I had.

Q. Consulted you on a number of legal matters?

A. Yes.

Q. She was capable of expressing herself on both of these occasions?

A. Certainly did, certainly was.

Q. Seemed to understand what was going on?

A. She came to me to defend one of her relations, a young lady that was work for the widow of Eddie Damon, and I defended the lady before Judge Robinson, in those days.

Q. At whose request?      A. At her request.

Q. Prior—

A. I remember it was prior to this deed.

That is all.

**Cross-examination.**

Mr. WITHINGTON.—You say you have practiced since 1896?      A. Yes.

(Testimony of A. G. Correa.)

Q. Where have you been practicing?

A. In the territory of Hawaii.

Q. Where?

A. In Honolulu the major portion of the time.

Q. How long were you in Honolulu?

A. I was admitted to the bar in all the courts of Honolulu.

Q. But you have spoken about your, you have tried cases in court? A. Yes, surely.

Q. And have spoken about your relations with Mrs. Houghtailing? I would like to know where you began to practice. A. In Honolulu.

Q. How long did you continue?

A. I continued to practice here until about the latter part [135] of 1906, and I practiced in California for, as near as I could judge, about a year, and came back to Honolulu and practiced on Maui, and since 1910, April first, I have been practicing on the island of Hawaii.

Q. Then the last occasion of your practicing in Honolulu was in 1906?

A. No, when I came from the coast, the mainland, I came to Honolulu.

Q. How long were you here then?

A. I should judge about a year, I cannot tell you offhand.

Q. What year was that?

A. Up to about the June term I should judge, in 1908 I think, about the year and a half, possibly.

Q. Now, you said you had a number of other mat-

(Testimony of A. G. Correa.)

ters for Mrs. Houghtailing before this, can you recall the first one?

A. I could not, absolutely impossible.

Q. Can you recall any of them?

A. I have just told you one instance, of this young lady related to Mrs. Houghtailing who was working for the widow of Mrs.—Eddie Damon, she, Mrs. Houghtailing, came to me to defend her, and I defended her before Judge Robinson.

Q. That was the matter of the young lady—

A. She was a relation, she was the one who employed me.

Q. I am speaking of any matters Mrs. Houghtailing, that you had charge of for her, you said a number—

A. Yes, quite a number.

Q. Name one of other than this.

A. Other than this?

Q. Yes, this matter.

A. Other than this instance of this deed? I can't keep all these things in my head. [136]

Q. But you have a good, careful and accurate account of what took place in regard to this deed, and called up her suddenly, had you consulted counsel before this morning? A. No.

Q. So that you are testifying, to use an expression, off the bat— A. I have just—

Q. I am asking you, in the same way, about other matters, you say you had a number, leaving out the appearance for the relative, tell me one.

A. I cannot remember, absolutely impossible.

(Testimony of A. G. Correa.)

Q. Haven't the slightest idea of what any of them—

A. Certainly not, how could I at this time?

Q. If you haven't so efficient a memory about these other matters how is it that you are so accurate, you have so accurate a memory about this transaction?

A. As far as this particular transaction, the deed itself brings it to my memory.

Q. Then you are testifying—your testimony here is based really on this deed?

A. Why, surely, I drafted it myself.

Q. Now, let me—you say that you observed the deed is dated in June, you observed that?

A. I didn't say that, I beg your pardon.

Q. I thought you gave the exact, dated in June and acknowledged—wasn't executed—

A. I didn't say any month, I told you I think I went up to Maui during the month of June term, 1908.

Q. I didn't say anything about June, 1908, I am speaking about this deed.

A. That is the only instance I have mentioned about the month [137] of June.

Q. Let us get back, leave out the month of June, didn't you say in your direct examination in substance that you observed from the face of the deed that it wasn't executed at the time—

A. No, I told you I observed that the deed was acknowledged some time later, I couldn't tell you when.

Q. Well, do you mean to say that the deed was

(Testimony of A. G. Correa.)

signed at the time of the date of the deed and acknowledged later?

A. I did not say that, either.

Q. You cannot say that?

A. No, of course not.

Q. Now, do you have any recollection of why it was not acknowledged, you say it might have been signed?

A. I beg pardon, I didn't say that it was signed.

Q. I didn't say that you did, I understood you to say it might have been signed, may not have been signed at the time of its preparation—

A. I didn't say that it might have been signed at that time.

Q. What did you say, let us get it straight.

A. I don't know when it was signed, as far as I am concerned.

Q. Well, do you know that it wasn't signed at the time when it was prepared?

A. I could not say that positively.

Q. I think that is the substance of what I said Mr. Correa.     A. I think the deed speaks for itself.

Q. I am asking for your memory, can you remember whether or not she was—she signed at the time when the deed is dated?     A. No, I can't say.

Q. Now, can you say that the deed was prepared at the time when it was dated?

A. I can say this, the deed was prepared before it was signed. [138]

Q. Now, why can you recall why it was not executed at the time when it was prepared?

A. I could not tell you, tell you that, I told you that

(Testimony of A. G. Correa.)

already. I couldn't tell her reasons.

Q. I didn't ask you that question before?

A. I answered it before.

Q. You cannot tell why it was not signed then?

A. No.

Q. Now, you say that the deed was read, and the deed was explained to Mrs. Houghtailing at that time? A. Yes.

Q. Why was it read or explained—when was it read?

A. I cannot tell you whether it was after the deed was drawn or when she came in later for it, I cannot tell you now.

Q. Can you tell why there was such a time as from June to November after she came to you and had the deed drawn and came to you to have it executed, do you recall any reason?

A. I could not, not at this late date.

Q. Now, when she first came she said she wanted to convey—a deed made to her, one of her sons?

A. That is as far as I can recall, I don't know, I can't tell now.

Q. Don't you know, or do not—

A. I followed her instructions, the deed speaks for itself.

Q. Kindly answer me, you said in your direct examination something about her asking to have suggesting to have a deed to one of her sons?

A. That is what I am, I think, what I tell you is from my memory, I followed her instructions, whatever it is, in that deed.



(Testimony of A. G. Correa.)

Q. I didn't ask you, I am asking you about some-time else— [139]

A. I told you that I followed her instructions, whatever the deed says, whatever it is, the instructions are in that deed, I could not tell you from memory now about—

The COURT.—Ask the question.

Mr. WITHINGTON.—You said in your direct examination that when she first came to you that she said something about wanting to deed—a deed made of all her property to one of her sons, is that correct?

A. As far as my memory goes, I am telling you, as far as I can recall that was her conversation to me.

Q. The first time she came to you?

A. In reference to have—a deed, I cannot recall whether it was a son or grandson or nephew, whatever it is it is in the deed, in that deed.

Q. Then is this a fair statement of your testimony here,—

A. I may be in error as far as that is concerned.

Q. Let me finish, then am I right in making this assumption, Mr. Correa, that your testimony here is based on what you see in the deed, and not on the independent recollection on your part?

A. I haven't seen anything.

Q. Will you answer my question?

A. I am answering your question, I haven't read the deed over.

Q. Will you answer my question?

A. I can't answer your question because I haven't read the deed.

(Testimony of A. G. Correa.)

Q. I think you can answer my question.

The COURT.—Then you do not know to whom the land was conveyed, whether to her son or somebody else?

A. Not at this time, Judge, from as far as I can recall, the deed speaks for itself. [140]

Q. Now, on direct examination you referred to a son, you said that you believed the deed was made to her son?

A. That is my recollection, I cannot say, of course, the deed I haven't read, outside of the deed itself I cannot say which was, the son, or grandson or nephew, or what it was.

The COURT.—When you say that you are depending on your recollection from there?

A. That is all.

Q. And your recollection in that regard may be wrong?

A. As *a* I say, sure, I may be in error, I don't know, I can't be certain, positive on that score.

Mr. WITHINGTON.—Now, passing from that, the one you did recall of Mrs. Houghtailing employing you for the young lady relative, who was that?

A. I could not tell you.

Q. When was it with reference to this deed?

A. Well, I know it was after Eddie Damon's death, and this young lady was a relation of Mrs. Houghtailing, and she was working then for the widow of Eddie Damon, exactly the time, what time that was I don't know, I believe it to be prior to the execution of this deed, I may be in error also on that,

(Testimony of A. G. Correa.)

I am falling back on my recollection, I cannot be positive.

Q. Do you know what relation she was?

A. No, I can't tell you, Mr. Withington.

Q. You say the matter was before Judge Robinson?     A. It was.

Q. Now, when she came to you with reference to that matter did she come with anyone?

A. Oh, I don't recall now who she came with.

Q. You say that you knew—you think at that time one of the sons, that was in 1905, that you knew—

[141]     A. Yes.

Q. Which one you can't say?

A. No, I couldn't say.

Q. Do you know them all now?

A. Well, I don't know that I can say that, I really don't know how many sons she has.

Q. Do you know George?

A. Do you mean the one sitting by Mr. Andrews?

Q. Yes.     A. Yes, I know him.

Q. When did you make his acquaintance?

A. That I could not say.

Q. Before or after 1905?

A. It was, possibly it was about 1905, I don't want to be positive, I can't recall.

Q. Can you—do you recall the circumstances under which you made his acquaintance?

A. I don't know that I can.

Q. Can't recall that?

A. I don't think so, any particular event that I can—

(Testimony of A. G. Correa.)

(Henry De La Nux stands up at request of counsel.)

Q. Do you recognize this gentleman?

A. That is him, he is one of the De La Nux, isn't that his name?

Q. When did you make his acquaintance?

A. Oh, I couldn't tell you positively, I have known him as Mrs. Houghtailing's son, a De La Nux, some time, but I can't tell you.

Q. Have you had any business dealings with him?

A. I think I have through Mrs. Houghtailing, I am not positive about that. [142]

Q. You can't recall any more definitely, Mr. Correa?

A. He accompanied Mrs. Houghtailing to my office on some business that she, as near as I remember, was interested in, what that was I cannot now say; it may have possibly been in connection with this young lady relation of Mrs. Houghtailing; it is absolutely out of the question for me to say definitely.

Q. You say you were the attorney for Mr. Houghtailing in his lifetime?

A. The firm of Creighton and Correa.

Q. After Mr. Creighton's death you said you were—

A. After Mr. Creighton's death I did a little business for—I did a little business for Mr. Houghtailing, and after his death, done business for Mrs. Houghtailing.

Q. Was there any probate of a will, anything of that sort?     A. Not that I can recall.

(Testimony of A. G. Correa.)

Q. Can you recall anything of this visit, the first one, then she went again, you say you absolutely can't recall?

A. It is long years ago, and I attended to so many clients, unless I get a diary during those days.

The COURT.—Did you draw any deeds for Mrs. Houghtailing or Mr. Houghtailing?

A. For Mr. Houghtailing.

Q. Some deeds?

A. Bills of sale, mortgages.

Q. Do you remember any particular mortgage or bill of sale?

A. No, I can't recall, Judge, many matters of that kind which were done, but I can't recall, cannot now recall, as far as I can—

Q. You recall what property Mrs. Houghtailing referred to in the drawing up of the deed?

A. Not this deed, I could not, Judge. [143]

Q. You can't recall that?

A. Outside of the deed itself, I could not.

Q. And in drawing up this deed for this land, which is your method in describing that land?

A. By metes and bounds if it can be had, likewise leases, Judge, documents of that nature, when the metes and bounds can be had.

Q. Have you ever drawn up a deed conveying land without metes and bounds, all property, something like a question of that kind, a question something similar to that in a will?

A. Yes, I have it in leases of that kind.

Q. Deeds?

(Testimony of A. G. Correa.)

A. Yes, I have had leases of that kind, I cannot say now the particular parties, I know there are instances of that kind.

That is all.

That is all.

The COURT.—Can you state positively that George had anything to do with the preparation of this deed, giving you instructions?

A. I am positive.

Q. You are positive any way that about Mrs. Houghtailing, quite positive of that?

A. Yes, quite positive of that.

Q. Are you positive, assuming that Mrs. Houghtailing came to see you first, are you positive whether somebody came in afterwards and talked over the matter with you before its final execution?

A. After it was drafted?

Q. After Mrs. Houghtailing's first visit to your office?

A. I don't recall, Judge, of any conversation in reference to that document with anyone other than Mrs. Houghtailing.

Q. Do you mean to say that you may have had some conversation with someone else? [144]

A. Mrs. Houghtailing called at the office at two times with another lady, but I can't recall now, I am quite certain this other lady did not accompany Mrs. Houghtailing in reference to this transaction, it is so long ago I can't—I am not definitely clear.

The COURT.—What I wanted to find out, whether somebody else had something to do with the

(Testimony of A. G. Correa.)

preparation of this deed outside of Mrs. Houghtailing?

A. Quite positive so far as this transaction is concerned, that no one else but Mrs. Houghtailing.

Mr. WITHINGTON.—Do you know this lady here? (Indicating Mrs. George De La Nux.)

A. This is the first time I have seen her.

Q. Did you say on direct examination that the time when she came into the office when you directed her to Mr. Savidge's office for the acknowledgment of the deed, that one of the boys came with her?

A. Yes, I could not tell you just which one of the boys it was.

That is all. [145]

**Testimony of Mrs. Nancy Cullen, for Petitioner.**

Direct examination of Mrs. NANCY CULLEN, called for petitioner, sworn, testifies as follows:

Mr. LARNACH.—What is your name?

A. Mrs. Nancy Cullen.

Q. You are a resident of Honolulu, Island of Oahu? A. Yes.

Q. How long have you been a resident here?

A. Twenty years.

Q. Do you know Mrs. Houghtailing?

A. Yes.

Q. You know where she lives?

A. Yes, I used to.

Q. When did you move away?

A. I didn't move away from the district, moved a little farther up.

(Testimony of Mrs. Nancy Cullen.)

Q. For how many years have you known Mrs. Houghtailing? A. Twenty years.

Q. Visit at her house? A. Yes.

Q. She visit at your house?

A. Well, very seldom.

Q. Did you visit Mrs. Houghtailing frequently?

A. Yes.

Q. Stay there any length of time?

A. Oh, I spent the day there sometimes, evenings.

Q. What have you to say about the habits of Mrs. Houghtailing in regard to sobriety?

A. She was a common drunk.

Q. How long has she been that? [146]

A. Ever since, as far as I have known her, twenty years.

Q. What was her disposition when she was drunk?

A. Very bad, worse.

Q. Was there any—were there any of her children living with her? A. Yes, two boys.

Q. Which two boys? A. Henry and Charley.

Q. Do you know whether Henry has any other place to *place* than with his mother?

A. He went to live at Maunalua after he got married.

Q. Have a place of his own?

A. I don't know whether he owned the place or not.

Q. Did you know Mrs. Houghtailing at any time while Charley was there living? A. Yes.

Q. Did you see Charley drinking there?

A. No, very seldom, just as his mother said, once



(Testimony of Mrs. Nancy Cullen.)

a year; I never saw him drunk.

Q. Do you know where Mrs. Houghtailing obtained any of her liquor?     A. Yes.

Q. Where?

A. There was a Portuguese corner store, that was before the Cockett's saloon was there, she used to go down there.

Q. Did you use to see her go down there for liquor?

A. Yes, I used to go down; we used to deal there; used to see her come right out with the liquor.

Q. You know that?     A. Yes.

Q. Where else did she get liquor from?

A. I don't know, maybe in town; after the saloon was there she [147] was there all the time.

Q. What saloon do you allude to?

A. Cockett's saloon.

Q. Did you see her go in Cockett's saloon?

A. She used to have to pass my gate, and I used to see her carrying a tin, every time she carried a tin she was going after beer.

Q. Do you know whether Mrs. Houghtailing had any special affection for her sons?

A. I think so, I think she thought well of her, of all her children.

Q. She thought well of all her children.

A. It was only when she was under the influence of liquor she would fight everybody.

Q. Any of these grandchildren, had she any special preference for?

A. Bathsheba, she thought a lot of the girl because she raised her.

(Testimony of Mrs. Nancy Cullen.)

Q. The daughter of whom? A. Of Henry.

Q. Could you say she had any preference for any of her sons?

A. All of them; I didn't know she had another son, never knew of this other one.

Q. Her son George?

A. Not until lately I heard she had another son.

Q. Now, what was Mrs. Houghtailing—did you ever see George's children at Mrs. Houghtailing's house?

A. No, never seen them; maybe they came there when I wasn't there.

Q. Did you go often to Mrs. Houghtailing's?

A. Off and on.

Q. How often? [148] A. Not every day.

Q. Every other day? A. Every other day.

Q. How close were you living to Mrs. Houghtailing when you were living there?

A. From that building there to here (indicating Board of Health Building).

Mr. LARNACH.—That is all.

#### Cross-examination.

Mr. ANDREWS.—How long was it that you used to go to her house every other day, for how many years? A. Knew her twenty years.

Q. During that twenty years you have been going to her house every other day?

A. Not every other day, but sometimes.

Q. For how many years? A. Yes.

Q. You went there every other day about—

(Testimony of Mrs. Nancy Cullen.)

A. Not every other day, sometimes.

Q. What do you mean by every other day?

A. Maybe once a week, three or four times a week, I don't know.

Q. Stay any length of time?

A. Stay a long time.

Q. Who did you use to go and see?

A. To see her.

Q. Despite the fact that she was a common drunk you used to run into to see her and stay a long time, two or three times every week? A. Yes.

Q. Was Henry and Charles there during these

A. Not every other day, sometimes.  
times? [149]

A. I don't remember, I guess they used to go out to work.

Q. As a matter of fact, for years, Henry and Charles have never done any work?

A. The *boys never* there at home, I never saw them around.

Q. You told about their fighting—

A. I did not see them, I hear them from the road, you could hear them way down to King Street.

Q. Did you hear the boys? A. Well, Henry.

Q. Henry, mostly? A. Yes.

Q. He used to get pretty drunk?

A. Yes, drunk.

Q. How about his wife, she get drunk too?

A. Sure.

Q. Pretty rough house? A. Yes.

Q. The old lady, Henry and his wife, all started in, is that right? A. Yes.

(Testimony of Mrs. Nancy Cullen.)

Q. Everyone used to get drunk when you were there during these visits? A. Yes.

Q. And they used to keep it up right along, she was drunk most every day?

A. She was up and down the street drunk, even at home.

Q. And you were visiting there all these times, two or three times a week, and while you were there she was drunk, was she? A. Yes.

Q. And Henry would be drinking too and his wife, the whole [150] crowd?

A. The whole crowd drunk.

Q. That used to last all day long?

A. I guess so.

Q. Well, all the time you were there, you would be there two or three hours?

A. Oh, not that long.

Q. How long would you say?

A. When they got too rough I would go home, I was only a young girl.

Q. Liquor was free to everyone that came in, and could have their drinks free?

A. I was a young girl—

Q. Liquor was free to anyone, had plenty of liquor in the house? A. Yes.

Q. And the only one of the family that you never saw there was George?

A. Yes, I don't remember seeing him there.

Mr. ANDREWS.—That is all.

Mr. LARNACH.—That is all.

**Testimony of Mrs. Agnes Robello, for Petitioner.**

Direct examination of Mrs. AGNES ROBELLO, called for petitioner, sworn, testified as follows:

Mr. LARNACH.—Your name, please?

A. Mrs. Agnes Robello. [151]

WITNESS.—I would rather speak in Hawaiian, I do not understand English.

(Interpreter called.)

Mr. LARNACH.—How old are you, Mrs. Robello? A. Forty-five.

Q. How long have you been living in Honolulu?

A. I belong to Honolulu, I was born here.

Q. Where have you been living for the last twenty-five years in Honolulu? A. Kalihi.

Q. Near the residence of Mrs. Houghtailing?

A. Yes.

Q. How close are you living to the residence of Mrs. Houghtailing now?

A. Between here, between one hundred and two hundred feet, about approximately that.

Q. Have you been living there for the last twenty years or more? A. Yes.

Q. Have you ever lived at the house of Mrs. Houghtailing? A. Yes.

Q. For what period of time?

A. I stopped there quite a number of times. Sometimes a few weeks, sometimes a month, sometimes almost a year.

Q. You know anything about Mrs. Houghtailing's habits as to whether she indulged or not in liquor, or not? A. Yes.

(Testimony of Mrs. Agnes Robello.)

Q. Did she indulge in intoxicating liquor?

A. She was a hard drinker, drink liquor every day, she would start in sometimes drinking for a week or two weeks steady.

Q. When did you first observe Mrs. Houghtailing's indulgence in the excess of intoxicating liquor?  
[152]

A. That is when she was stopping with my brother, and she—that was for a number of years.

Q. How long ago was that?

A. This time she was stopping with my brother was about thirteen or fourteen years ago.

Q. For how long has that been, drinking by Mrs. Houghtailing, how long did that continue?

A. I know it is only lately when prohibition came in that she stopped, if she got liquor now she would, she will be drunk.

Q. Now, while you were at Mrs. Houghtailing's house did you ever see her sons there?     A. Yes.

Q. Whom did you see there of her sons?

A. Henry and Charley.

Q. Did you ever see George there?

A. No, only sometimes, sometimes one week and go.

Q. Have you ever seen George there or any of George's children at Mrs. Houghtailing's?

A. The only time I seen them come there and go back again.

Q. Whom do you mean by they, George's wife or who else?

(Testimony of Mrs. Agnes Robello.)

A. I do not know for sure about the children, the wife is what I know.

Q. And how about Henry's wife and children, did you see them visit there at Mrs. Houghtailing's house? A. They stopped there.

Q. Did you ever hear of Mrs. Houghtailing express any particular fondness for any of her sons?

A. Not express wish for one—express affection for one.

Q. How about the grandchildren?

A. She had love for all the children.

Q. You heard her express it to you? [153]

A. Yes, she has expressed that, but when she is drinking she make expressions, when afterwards you tell her she don't remember.

Q. How about the grandchildren, have you ever heard Mrs. Houghtailing express any special preference for any of those?

A. I have heard her say, "This is my grandchild,—this is my grandchild that I love."

The COURT.—Did she have any favorite?

A. I don't know anyone specially.

Mr. LARNACH.—Do you know if Kulumanu lived with Mrs. Houghtailing?

A. Yes.

Q. How long a period of time did she live with Mrs. Houghtailing?

A. Well, quite a number of years she lived there.

Cross-examination.

Mr. ANDREWS.—You first lived there as I

(Testimony of Mrs. Agnes Robello.)

understand it, about thirteen or fourteen years ago when you first noticed Mrs. Houghtailing drinking, is that right?

A. I knew she was drinking before, I saw her drunk before that, I wasn't acquainted with her at that time.

Q. That was the first time you knew, that you saw with your own eyes?

A. I knew she was a hard drinking woman—

Q. —that you saw with your own eyes that she was a hard drinking woman, is that right?

A. I saw her before that drinking, but I wasn't acquainted with her before that time.

Q. Well, then, after you got acquainted with her—  
withdraw the question. [154]

Q. You said that Henry and Charley, Henry and his wife and children were stopping with her, is that right?

A. Yes, sometimes they stopped there, sometimes went down to Maunalua.

Q. How much of the time did they stop there?

A. I think most of the time she was stopping with her mother.

Q. Who was supporting them while you were there?

The COURT.—They were stopping there with the mother? A. Yes.

Mr. ANDREWS.—Who was supporting them when they were there?

A. I saw—as far as I saw the mother supported them, but some times they went to work.



(Testimony of Mrs. Agnes Robello.)

Q. Now, both Henry and his wife, drank heavily didn't they?     A. Yes.

Q. And did Charles and his wife live there too?

A. Charles didn't drink as much as Henry; sometimes he stopped there, but sometimes he went down to Maunalua.

Q. He didn't drink as heavily as Henry?

A. He drank, he did drink and his wife.

Q. Yes, he drank, but not to excess like Henry.

A. Yes.

Q. Most of the time did Charles live there with his mother or most of the time down at Maunalua?

A. I can't say for sure, because he would stop at his mother's for a long time and then go down to Maunalua and stop a long time.

Q. During the time that he was stopping at his mother's did his mother support him?

A. At sometimes when he was out of work.

Q. How often was he out of work and stopped there?

A. That boy was working most all the time, but there was some [155] times when he did not have work.

Q. Now, was Mrs. Houghtailing drunk or sober when she used to express affection for her children, and grandchildren?     A. Drunk.

Q. Was she very—was she able to take care the house, look after the house as head of the house?

A. When she was drunk she could not take care of the house, I was the one that took care of the house.

Q. Generally speaking, did she take care of the

(Testimony of Mrs. Agnes Robello.)

house, look after it, or did you have to look after the house?

A. When I was stopping there when she would get drunk everything would be scattered around, she could not fix the house, and I would have to fix the house.

Q. How long did you stay there?

A. A long time sometimes, stopped almost a year.

Q. Right up to what time?

A. I can't say for sure, sometimes I went to work for the pineapple company.

Q. When was the last time you stopped there?

A. About two or three years back.

Q. And during all this time that you stopped there with Mrs. Houghtailing, she took care of you, supported you too?

A. Yes, she took care of me, gave me food.

Q. One witness testified that there used to be big fights in the house between her and Henry and Henry's wife when they were drunk together, is that right?

A. Yes, I have heard them squabbling.

Q. Were these pretty bad squabbles?

A. Yes, when she would get into a dispute when she was drunk, talked pretty bad.

Q. How about Henry and his wife, talk bad too?  
[156]

A. When Henry was drunk he would go to sleep.

Q. Did they have any fights, Henry and his wife and she? A. No.

Q. Now, when they were having these rows that

(Testimony of Mrs. Agnes Robello.)

you talk about, was anything thrown, things at one another?

A. They had a big row at one time, and I wasn't there, but when I got back as far as the fence it was over, I don't know what was done at that time.

The COURT.—(12 o'clock.) This case will be continued until to-morrow morning at nine o'clock.

**Testimony of Henry De La Nux, for Petitioner.**

Direct examination of HENRY DE LA NUX, called for petitioner, sworn, testified as follows:

Mr. LARNACH.—Your full name?

A. Henry E. De La Nux.

Q. Your residence? A. Kamehameha IV Road.

Q. Near that of Mrs. Houghtailing's? A. Yes.

Q. What relation are you, if any, to Mrs. Houghtailing? A. I am her son.

Q. How long have you lived at that place that you are now living?

A. About twenty-four years, off and on.

Q. When you were not living there where else were you living? [157] A. At Maunaloa.

Q. In your own house or a rented house?

A. No, my wife's house.

Q. What is your business at this time, Mr. De La Nux? A. At this time, pipe-fitting.

Q. How long have you been at that line of business? A. Now you mean?

Q. Yes?

A. I have been with—about three years now.

Q. Working steadily? A. Yes.

(Testimony of Henry De La Nux.)

Q. Where were you educated, Mr. De La Nux?

A. Here in Honolulu, at St. Louis College.

Q. After you left St. Louis College, where did you go, to work, or—

A. Yes, I went to Hawaii with my uncle to work in the mill.

Q. In what capacity?

A. First I was scale man, then worked for sugar chemist, then worked with my brother George helping him around the sugar plant.

Q. Where was that? A. Paauhau plantation.

Q. What did you do further?

A. Then I helped, in the engineer's department.

Q. Still on Hawaii? A. Still on Hawaii.

Q. Now, when did you leave Hawaii to come to Honolulu to stay?

A. I don't know exactly what year it was.

Q. About? A. I think it was 1895.

Q. Did you come to Honolulu to work, or for a vacation?

A. No, I came to Honolulu to stay. [158]

Q. Were you married at that time? A. No.

Q. What did you do when you arrived, did you go to work?

A. No, not right away; I didn't know the town; I met a friend of mine down on the Alakea wharf building that fish market, he got me a job on the old Kohala, a saller—

Q. How long did you work there in the capacity—

A. I worked three weeks, the ship got wrecked down at Kohala.

(Testimony of Henry De La Nux.)

Q. What was your next?

A. I went down to see my brother George to pay him a visit.

Q. How long did you remain there?

A. Oh about three weeks.

Q. And returned to Honolulu?

A. I returned to Honolulu and worked for the Waipahu plantation.

Q. How long did you remain with the Waipahu plantation?     A. Eleven months.

Q. Then what did you do if anything?

A. Came back to work with the plumbers, Ben Aiea.

Q. Where did you live in Honolulu working for Ben Aiea?     A. Lived at my mother's house.

Q. Were you married or single at that time?

A. Single.

Q. When did you marry, what year?

A. 1897, I think, something like that.

Q. Now, during all that time did you—were you a drinking man or a prohibitionist?

A. Do you mean while I was here?

Q. Yes, while you were in Honolulu?

A. Yes, I started to drink when I got here.

Q. What started you? [159]

A. Well, when I came to her, I didn't know how to eat raw fish and, or poi, so my mother she had nothing but raw fish and poi and stuff around there for me to eat, I couldn't eat it, so she brings out a bottle of gin, to try this stuff, I take down a little gin, in a little while I get kind of drunk, I don't know

(Testimony of Henry De La Nux.)

whether I was drunk or not, and I started in with this fish, raw fish; of course, the next day, of course, the same thing, and after that I wanted gin instead of raw fish, that kept me drinking up to about a year ago.

Q. Now, during the period of time that you have lived with your mother, and lived in your mother's house, what have you to say with regard to your mother's habits, particularly as to sobriety?

A. Well, ever since I came here I know her to be a drunkard.

Q. Using liquor to excess you mean by that?

A. Yes, keeps it up.

Q. Did you ever see your brother George visit your mother's house while you were living with your mother?     A. Yes.

Q. Did your brother George's family visit there?

A. Yes.

Q. Was there liquor used by any of the family at that time when George was visiting?     A. Yes.

Q. Did you ever see George indulge with the rest of the family?     A. Sometimes.

Q. Did you ever see any liquor brought by any of the members of the family to your mother's house?

A. Yes.

Q. Who, for instance, would bring liquor?

A. George himself.

Q. What kind of liquor? [160]

A. Sometimes whiskey, sometimes gin.

Q. Did he—what would he do with the liquor when he brought it to the house?

(Testimony of Henry De La Nux.)

A. Well, sometimes bring it into the kitchen and leaves it there, of course when they want a,—I want a drink I go and open it.

Q. Did you ever see your mother indulge in liquor when your brother George was there? A. Yes.

Q. To excess? A. Yes.

Q. Now, what were the relations between your mother and George, were they friendly or unfriendly, we will say for the last fifteen years—say, around 1900 or 1902 or 3, were they friendly or unfriendly?

A. Yes, friendly.

Q. Did they continue that way right along from that time on?

A. No, continued up to the time when we heard about the case, about her giving a deed, and lawyer, concerning this case—up to that time that I know of, of course about the row, I don't know nothing about it.

Q. Was there any period of time that George didn't visit your mother's house from 1903 up to the present time?

A. No, it was never 1903, I think it is between 5 and 6 years I think that he never visited her.

Q. You do not remember between what years it was? A. No.

Q. Did your brother George—withdraw that—did you ever learn from any of your family that there was a deed made by Mrs. Houghtailing to her two grandchildren purporting to convey all her property?

[161] A. Yes.

Q. From whom did you learn that?

(Testimony of Henry De La Nux.)

A. My brother Charley.

Q. When was that, what year was that about?

A. That I can't remember.

Q. Did any other member of the family ever tell you that there was such a deed?

A. It was only my mother after I asked her about it.

Q. When was that, do you remember, was it long ago or a short time ago?

A. Yes, about 1916, I think.

Q. Did you ever ask your brother George about— concerning such a deed?

A. Never asked him anything about it, but wrote him a letter once.

Q. Did he reply?      A. No.

Q. He did not?      A. No.

Q. Did he ever tell you there was such a deed?

A. He?

Q. Yes?

A. No, never said a word to me about it.

Q. Now, when your mother drank to excess what was her condition, could she undertake her ordinary business or was she helpless or just what was her condition?      A. She was perfectly helpless.

Q. Do you mean physically or mentally?

A. Both.

Q. Was she pleasant under the influence of liquor or hostile?

A. Well, sometimes when there is outsiders there she is pleasant with them, when she wants more drink she questions me and I won't go and get it, then there



(Testimony of Henry De La Nux.)

is a row between she and I. [162]

Q. Do you know whether your mother had anyone to act as her agent or conduct her affairs during the last fifteen or twenty years? A. Yes.

Q. Who? A. Mark Robinson, the old man.

Q. That is, the father of Lawrence Robinson who was on the stand? A. Yes.

Q. Do you know whether Mr. Lawrence Robinson ever represented your mother in that same capacity?

A. Before that time, I don't know; after, sometimes, she used to be so sick over liquor, she gives me a note and I goes down town and get money from this Mr. Robinson and this boy Lawrence.

Q. Now, did any of your children ever live with your mother, Mrs. Houghtailing for any period of time? A. Yes.

Q. Anyone in particular? A. Bathsheba.

Q. She is one that is now dead? A. Yes.

Q. How old would she be if living at this time?

A. Be nineteen years and four months.

Q. She died how long ago? A. February 12th.

Q. Of this year? A. Yes.

Q. What were the relations existing between Mrs. Houghtailing and that niece of hers—grandchild?

A. Well, she always said that was her only grandchild, all the time, drunk or sober, to most of the people that came [163] around there; of course that is how she got the name of Bathsheba, from Mrs. Allen.

Q. Do you know—

(Testimony of Henry De La Nux.)

The COURT.—Mrs. Allen was a sister of Mark Robinson?

WITNESS.—I think so, of course I don't know.

Mr. WITHINGTON.—Mrs. Allen—the senior Robinson had a son who is the father of Mrs. Hough-tailing; all the rest of the family, Mrs. Allen, Mrs. Foster, and the rest, Mark Robinson, are of one family; she is the only living descendant.

The COURT.—Half brother of that family?

Mr. WITHINGTON.—Yes.

Mr. LARNACH.—Now where were you working when—if you were working, around 1904 and 1905?

A. In 1904 and 1905 I was working right in Honolulu as a plumber.

Q. Did you ever work at any time down at Aiea?

A. Yes.

Q. When? A. The year I don't know.

Q. Was it after 1905 or before? A. After.

Q. How long after?

A. About a year after, I think.

..Q. Were you living near to your brother George?

A. Yes.

Q. Who were you working for, your immediate boss?

A. He was supposed to be my boss at the pumping station.

Q. That was after the year 1905? A. Yes.

Q. Now while you were down at Aiea working under your brother George did your brother George tell you anything about this deed? [164]

A. No, not a word.

(Testimony of Henry De La Nux.)

Q. That is in this controversy? A. No.

Q. Did you ever visit your brother George's house?

A. Yes.

Q. Did you see Mrs. De La Nux, Lahapa?

A. Yes.

Q. Did she ever tell you about this deed that your mother was supposed to have made? A. No.

Q. But you say you did not find out about this deed until somewhere about 1916, didn't hear about it? A. Yes, something like that.

Q. Now when your mother was drinking, indulging to excess in liquor, did she eat, take care of herself, or what was her habit?

A. No, she didn't eat, she didn't take care of herself, didn't care for anything but liquor.

Q. Now how often would your mother indulge to excess in liquor?

A. Most every day in the week, including Sundays.

Q. Now during that period of time what were the relations existing between yourself and your mother, friendly or otherwise?

A. Well, sometimes friendly, and sometimes of course through liquor we got in a row because when I didn't open the bottle of gin fast enough there is a row.

Q. Now were you simply, all of you, around the house drinking, doing nothing else, or did you go to work during, say, the last ten years?

A. Well, when I am drinking, yes, why I lay around the house, [165] when I get sobered up I go to work.

(Testimony of Henry De La Nux.)

Q. Did you lie around the house for any period—any length of time?

A. Well, sometimes about a month, then I go to work about three or four months, then I get enough money to buy booze, stay home and drink it up and go back to work, and so on.

Q. What were the relations between your mother and her grandchildren—were they friendly or otherwise? A. Friendly.

Q. Was she friendly to all of them?

A. All of them, because she named all of them herself.

Q. How about Charley, was she friendly to Charley?

A. Yes, most of the time; of course Charley wasn't as heavy a drinker, of course when she starts to rough house with Charley of course he is gone; me being drunk I stay there.

#### Cross-examination.

Mr. ANDREWS.—Were you, when you first came back to Honolulu, 1901 or 1902, at that time was your mother a regular drunkard then?

Mr. WITHINGTON.—1905.

Mr. ANDREWS.—All the time, when he came back in 1905? A. From Hawaii?

Q. Yes, the last time? A. Yes.

Q. She was what you call a regular drunkard then?

A. Yes.

Q. That is, she was drunk every day, including Sundays? A. Yes.

(Testimony of Henry De La Nux.)

Q. And drunk so that she got paralyzed, as you say, is that [166] right?

A. No, I didn't say she got paralyzed, drunk.

Q. You said so to Mr. Larnach, that she got physically and mentally helpless, that he asked you if you mean physically and mentally, and you said both; is that so, she got drunk every day, about?

A. Not every day; no.

Q. How often?

A. About two or three days in the week.

Q. That would keep, that kept up, right up to when? A. That keeps up for months.

Q. Until what year?

A. I don't remember the year.

Q. How many years ago did she stop getting that way, when prohibition came?

A. About a month before that.

Q. About a month before prohibition? A. Yes.

Q. That was in 1918? A. Yes.

Q. Up to that time, every day, every week, she was drunk?

A. Not exactly drunk, but she has got liquor in her every day and every week.

Q. How many times during that time during the week would she be what you would say, regularly—a regular drunk?

A. Three or four times a week.

Q. Three or four times a week she would be regularly drunk?

A. Yes, just get drunk with liquor, didn't eat anything.

(Testimony of Henry De La Nux.)

Q. Helpless?

A. Not every day in the year.

Q. Three or four times a week, you said?

A. Yes. [167]

Q. Now, then, both you and your wife drink heavily, don't you?     A. What is that?

Q. Both you and your wife drink heavily, don't you?     A. My wife drinks heavily sometimes.

Q. That is, she used to get drunk, too?

A. Yes.

Q. And then how often a week would she get drunk?

A. Maybe once a week, sometimes once a month.

Q. Do you mean by that, drunk, you mean, helpless, very drunk?

A. No, drunk, what I mean, staggering around.

Q. Every day your wife would take something to drink just like your mother?

A. No, not every day.

Q. Then, as I understand, you would work a little while, to get enough money to buy booze and then drink it until you got through with it?     A. Yes.

Q. That lasted up to a year ago?     A. Yes.

Q. And the only time you worked when you were out of money and couldn't get any liquor?

A. Yes.

Q. Now, then, during all this time while you were drunk, who kept your family and you, the old lady?

A. While I was drunk?

Q. Yes.     A. Yes.

(Testimony of Henry De La Nux.)

Q. She took care of all your folks—and your folks?    A. Yes.

Q. In fact, she spent everything for meals, everything, when you were living at her house?

A. While I was drunk. [168]

Q. You are living there now at her house?

A. Yes.

Q. You live at the same house?    A. Yes.

Q. Now, your family live, not in the same building with your mother?

A. No, it is only about 1901 when we went to live in the little house by myself.

Q. Belongs to her?    A. Yes.

Q. Don't pay any rent?    A. Yes.

Q. You all eat together?    A. No.

Q. Eat separately?    A. Yes.

Q. Now, during all these years,—well, how long did you work for George down at Aiea?

A. Oh, between three and four months, I think.

Q. Then he had to let you out on account of your drinking?

A. No, he didn't let me out, the chief engineer let me out?

Q. You were let out?    A. Yes.

Mr. ANDREWS.—That is all—oh, just one more question.

Q. Charlie and his family during these years that you tell about, they lived at the house, too?

A. Sometimes.

Q. Well, how much of the time?

(Testimony of Henry De La Nux.)

A. Sometimes two or three months, sometimes two or three weeks, of course.

Q. Then where would they go?

A. Then go down to Maunalu with his wife's folks.

Q. His wife own the place down there? [169]

A. Yes, his wife's folks.

Q. Live with his wife's folks a little while and then come back, is that right? A. Yes.

Q. He lived in a house belonging to his wife's folks down at Maunalua? A. Yes.

Q. Who supported his wife's family down at Maunalua?

Mr. WITHINGTON.—We object to that, that is not—

Objection sustained.

That is all.

#### Redirect Examination.

Mr. LARNACH.—Q. When Charley and his wife lived with your mother, why your mother supported them, too, bought food, meals, for all of them?

A. That I don't know.

Q. Well, they eat with you, didn't they, all eat together? A. No.

Q. Didn't eat with you folks?

A. No, I get up out of bed and help myself, I don't know nothing about them.

Q. They lived in the same place? A. Yes.

Q. They ate at the same building, she was feeding them?

A. That might be, but for us, I don't know.

That is all. [170]



**Testimony of Charley De La Nux, for Petitioner.**

Direct examination of CHARLEY DE LA NUX, called for petitioner, sworn, testified as follows:

Mr. LARNACH.—Your full name, please.

A. Charles A. De La Nux.

Q. Where do you live, Mr. De La Nux?

A. At Castner.

Q. On this island?      A. Yes, Honolulu.

Q. Are you married?      A. Yes.

Q. What is your business?

A. I am foreman carpenter.

Q. Working for who?

A. Working for the Construction Quartermaster United States Army.

Q. How long have you worked in that capacity?

A. Five years.

Q. Prior to that what was your business?

A. Prior to that I was working for the Lord Young Engineering Company.

Q. How long did you work for them?

A. Since 1911 or '12, if I am not mistaken, I am not sure, ever since I quit the plantation.

Q. What do you mean by "quit the plantation"?

A. Well, before that I working at the pumping station.

Q. Where?

A. At Eiea plantation, Waimalo.

Q. Is that where your brother George works?

A. Yes.

Q. Same plantation?

A. Yes, same plantation. [171]

(Testimony of Charley De La Nux.)

Q. When did you go to work there, Mr. De La Nux?

A. At the time of the strike, Japanese strike. I couldn't exactly tell you.

Q. How long did you stay there?

A. I stayed there three years on the plantation.

Q. And your brother George saw you working there?

A. Yes. I worked for him seven months, I believe, and I was transferred from his station over to Waimalo, and I stayed there a little over two years and some months, it was September or October when I left the plantation.

Q. Did I understand you to say that you were two years at Waimalo?

A. Two years and some months at Waimalo.

Q. That is another plantation?

A. That is the same plantation, but only a different section.

The COURT.—You worked altogether about three years at Aiea?

A. Three years at the Aiea pumping stations, both stations, on the same plantations.

Mr. LARNACH.—Did your brother George know you were working down there? A. He did.

Q. Never gave him any idea that you were loafing down there?

A. No, I had charge of one station down there.

Q. Now, have you lived for any length of time with your mother, Rebecca Houghtailing, here in Honolulu?

(Testimony of Charley De La Nux.)

A. Well, I couldn't say, perhaps a week or a month or so, sometimes a month, then I would go and stay away for a year or more.

Q. Before you were married where did you live?

A. At home.

Q. What home, do you mean Mrs. Houghtailing's?

A. Yes. [172]

Q. When were you married?

A. About sixteen years ago, I believe.

Q. What did you do with your belongings, when you would live at some place other than home, than the home of your mother, did you take them with you? A. Yes.

Q. And bring them back when you returned to your mother's home, is that what you mean?

A. Yes.

Q. Now, are you a drinking man, Mr. De La Nux?

A. Well, I wouldn't say I was a teetotaler, I drink sometimes.

Q. Drink to excess?

A. Well, not to excess; have been pretty heavily loaded, so I can say that.

Q. Do you indulge in that frequently? A. No.

Q. Have you ever indulged to excess in your mother's home here in Kalihi? A. Yes.

Q. Frequently?

A. Well, not frequently, can't say frequently; it will depend on just how I feel, sometimes I drink, then I will let it go for quite awhile.

Q. Did you ever drink to such an extent that it interfered with your work, going to work?

(Testimony of Charley De La Nux.)

A. No, never did.

Q. How about your mother, did she indulge in liquor? A. Yes.

Q. To excess? A. Yes.

Q. How far back can you remember your mother indulging in liquor [173] to excess?

A. Ever since I came to Honolulu.

Q. When did you come to Honolulu?

A. When I was thirteen years old, or almost fourteen.

The COURT.—How old are you now?

A. Thirty-seven.

Mr. LARNACH.—What was her condition when she indulged to excess, was she bright and cheerful, able to attend to her affairs?

A. No, boisterous, rowdy, looking for a fight all the time.

Q. Now, around the years 1904 where were you living? 1905? A. Maunalua.

Q. And did you visit your mother's house during that period? A. Yes.

Q. Did you hear anything about the execution of a deed by your mother, about that time? A. No.

Q. Later on? A. Later on I did.

Q. Do you remember anything about the execution of the deed—did you hear anything about the execution of the deed? A. Yes.

Q. Tell us when you first heard it, of any such occurrence.

A. Might be around 1909 or 1908 when I first heard it.

(Testimony of Charley De La Nux.)

Q. Then how did you happen to hear it?

A. She came to my house and told me about it when I was living at Deaha Lane.

The COURT.—Were you not married then?

A. Yes, I was married.

Q. When were you married?

A. I couldn't exactly recall the year, I think it is about sixteen years ago.

Q. What were you doing down in Maunalua?  
[174]

A. I was living there at the time with—at my wife's place; then it is too far away from my work; I was working for Link McCandless' building, at the Armstrong block, corner River and King Streets, so I moved down to Desha Lane and lived over there.

Q. Where were you living in 1905?

A. In 1905 I was down at Maunalua, I believe, but around 1908 or 1909 when I moved down to Desha Lane, that is when I first heard of it.

Q. How long did you live down at Maunalua?

A. Well, off and on, I believe for a good number of years.

Q. About that time—about what time?

A. Maybe two years or so.

Q. You were not living with your mother in 1905, 1904 or 5?

A. No, when I got married I moved to Maunalua, that is where I lived, in one of Sam Damon's—

Q. You used to come to your mother's house?

A. Yes, that would be off and on.

Q. When was your child born?

(Testimony of Charley De La Nux.)

A. Born in her home.

Q. When, that is fourteen or fifteen years ago?

A. The year after I was married.

Q. You don't know when you were married? You don't remember?

A. No, I don't remember, I don't recall, unless I trace it back, I may have seen *the seen* the date, but it is about sixteen years ago.

Q. How old is your youngest child, the one living now, who is ten, I believe now?

A. Yes, he will be eleven next year.

Q. When was the first child born?

A. Born February twenty-second I think, I can't remember the year. [175] About 1904 or three, I think, I never kept a record of it.

Q. Well, the child is dead now?

A. Yes, he died when he was four months old, and the second child was not born until five years later.

Q. Five years after the first child? A. Yes.

Q. Now, how old is your second child now?

A. He is going onto his eleventh year.

Q. So the first child would be about fifteen years?

A. About fifteen years, he was born the year after I was married.

Q. Born about 1903? A. Yes.

Q. At your mother's place?

A. Yes, at my mother's place. At that time I was working for Mr. Cockett attending bar for him—no, the first child was born at Maunalua. She was up at the house the evening before the child was born.

Q. Your wife was?

(Testimony of Charley De La Nux.)

A. Yes, she rushed home and had her child at home at Maunaloa, at her mother's house.

Q. Were you working for Mr. Cockett in 1905?

A. Yes, tending bar for Mr. Cockett.

Q. Your mother buying liquor from that place?

A. Yes.

Q. Did you use to sell liquor to her?

A. I don't know, it is my business to give it to anybody who came for it; of course she wouldn't come direct herself, always be somebody else, women could not come into the saloon, and I never had anything to do with the bills; all I did was to pass it over the bar, whoever who came for it. [176]

Mr. LARNACH.—What was the character of the place, was it a light wine and beer—

A. Light wine and beer.

Q. During that time were the relations between yourself and your mother friendly or otherwise?

A. Yes, I used to call up there quite often.

Q. And you have referred to your wife bearing her child in 1903? A. Yes.

Q. Is that your present wife? A. No.

Q. What became of that wife you referred to as bearing a child in 1903? A. She is dead.

Q. And your present wife, Mrs. Charles De La Nux, you married her about— A. 1915.

Q. You have stated that at no time did your brother George discuss with you the making of the deed by Mrs. Rebecca Houghtailing, a deed conveying all of her property or purporting to convey all of her property, to George's two children?

(Testimony of Charley De La Nux.)

A. No.

Q. Sure of that? A. Oh, yes, quite sure of it.

Q. Now, what did your mother say when she came to your house in Desha lane and told you about making the deed?

A. She says, "Son," she says, "I have done something wrong to you." I asked her what it is, "Oh, I will tell you some day."

Q. Was that all that was said? [177]

A. That is all.

Q. That is all you knew about it?

A. That is all I knew about it, yes.

Q. Then you didn't know at that time that it was a deed that did the wrong? A. No.

Q. When did you find out the wrong that she had done?

A. It was some time afterward through Mrs. Richard, I found out.

Q. Do you remember whether that was five or six years after or two months, how long after this first conversation you had with your mother?

A. About two or three years.

Q. Is that just an estimate or a guess? A. Yes.

Q. Can you fix it up to any instance, or incident?

A. Yes, I can fix it up to an instance.

Q. What instance?

A. Through a trouble that occurred at the house.

Q. Were you there?

A. No, I wasn't there, I was working at the pumping station at that time.

Q. Near your brother George? A. Yes.



(Testimony of Charley De La Nux.)

Q. Did you hear from your brother George of the trouble that had occurred?

A. No, heard it from other sources.

Q. Did he ever discuss with you the trouble that occurred with his mother?     A. No.

Q. Regarding,—or what caused that trouble?

A. No. [178]

Q. Were you visiting George's house at that time?

A. Yes.

Q. Friendly?

A. Yes, there was just a fence between his house and mine.

Q. How many feet, how far away did George live with his family?     A. About forty feet.

Q. Did you use to visit the house when your mother was married to Mr. Houghtailing when Mr. Houghtailing was living, did you visit your mother's home when he was alive?

A. No, I stayed away as much as I could, Mr. Houghtailing and I didn't quite agree.

Q. Do you know what business Mr. Houghtailing was in?     A. Liquor business.

Q. Do you know whether or not the Houghtailing home, and your mother's home was supplied with liquor during that time, that period?

A. Well, I can't say so much about the Houghtailing home, but my mother's home was supplied with liquor by Mr. Houghtailing.

Q. That you know?     A. Yes.

Q. Did you ever write to your brother George about the deed that we have discussed?     A. No.

(Testimony of Charley De La Nux.)

Q. Then, as I understand you, you never at any time discussed the deed with your brother George?

A. Never.

Q. At no time has your brother George discussed with you the deed or referred to it in any way?

A. No. [179]

Cross-examination.

Mr. ANDREWS.—I understand, Mr. De La Nux, that about 1908 your mother came to visit you on Desha Lane and said, “I have done something wrong to you,” is that right? A. Yes.

Q. It was at the place you were living at Desha Lane she said that? A. Yes.

Q. She just said, “I have done something wrong to you, I will tell you about it some day”? A. Yes.

Q. From this you believed it was the deed she was talking about?

A. No, I didn't believe anything at all, I tried to find out, but she wouldn't tell me, that is all, I never had no ideas about deeds or anything else.

Q. You knew that she had done something—

A. She wouldn't tell me what it was.

Q. She wouldn't tell you? A. I suppose so.

Q. That is the way it impressed you?

A. Yes. She knew she had done something and didn't want to tell me.

Q. Something they took away that ought to belong to you wasn't that the idea, is that right, she gave a deed—

A. Whether she done me any wrong or done somebody else or herself wrong, but she said, she had done

(Testimony of Charley De La Nux.)

something wrong to me, and tell me some day.

Q. Something wrong to you?

A. Yes, something wrong to me and she would tell me some day.

Q. Then about two or three years later you found a deed put [180] on record, that would be about 1910? A. Yes.

Q. You found it had been put on record, giving all her property to George's two children, sons?

A. Yes.

Q. You never said anything to George and he never said anything to you from that day to this, is that right?

A. George to me and I to George, no.

Q. You and his family have not been on good terms, and with George for a long time?

A. I can't say that I have not been on good terms with George and his family for a long time; as far as I am concerned, I had nothing against him until this thing came up, and I passed him on the street, he didn't talk to me and I did the same.

Q. As a matter of fact drinking with your mother, and a few people living up there, had a good deal to do with it? A. A good deal with what?

Q. Trouble between you and George?

A. No, not at all.

The COURT.—Were you talking to your brother George right up to 1916 or 1910? A. Yes.

Q. When did you quit talking to George?

A. As soon as the suit was brought up, three years ago.

(Testimony of Charley De La Nux.)

Q. Well, you found out in 1910 or thereabouts that this deed had been made by your mother? A. Yes.

Q. But did you keep talking to your brother, then?

A. Yes.

Q. Kept talking to him? A. Yes. [181]

Q. Up until this suit was brought in 1916?

A. Yes.

Q. Didn't you ask him about it at all?

A. No, I never did.

Q. Were you a little put out about it?

A. Why, yes, in a way, I was.

Q. Did you talk to your mother about it?

A. I did.

Q. What did she say?

A. She said she wanted to straighten this thing out, and I said, "Why don't you go and consult an attorney," that is all; that is how this started.

Q. Did you not say a word to George about it?

A. No, never did.

Q. Why didn't you?

A. Well, that is something I can't answer; I believed it was her duty, if she thought she had done wrong, to straighten it out herself, whatever you think, it is up to you, it is yourself, whatever you want to do do it; I never asked her for anything for myself. It is up to you, Mama, if you want to do it, just go ahead."

Q. After the suit was brought, your brother refused to look at you, passed you on the street?

A. Yes, I passed him many times since then; he wouldn't look at me and I did the same.

(Testimony of Charley De La Nux.)

Q. Did your mother show more affection toward one boy than toward another.

A. Well, not that I could see; I suppose as far as I am concerned, I was the black sheep of the family, didn't care very much for me, so I kept away from home as much as I could. My [182] brother Henry, he was her favorite.

Q. Henry was her favorite son?

A. Yes, she always said so.

Q. How about the grandchildren?

A. Well, I wouldn't say as to that; her expressions were always in Hawaiian; I didn't understand Hawaiian very plainly unless they talked very slowly.

Q. Have you ever seen—at about that time, 1905, did you see George's children at your mother's place at all?

A. No, I can't say that I did, they were very seldom there.

Q. Did you see any of the grandchildren at all at that time? A. My brother's, I believe, Henry's.

Q. Did you see them there whenever you called there?

A. Well, they were living there mostly all the time.

Q. Did you observe how the grandmother was treating them?

A. She treated her eldest grandchild, as I might say, a pet.

Q. Bathsheba?

A. Bathsheba, yes, being her first "mapuna."

Q. That is, "My Punanele"?

A. Everything was "first mapuna" as far as I

(Testimony of Charley De La Nux.)  
understand the Hawaiian language.

Redirect Examination.

Mr. LARNACH.—What did you learn from Mrs. Richards, that there was a deed, or did you learn that it was a deed purporting to convey all the property—

Mr. ANDREWS.—We object to that as not re-direct; I never brought out anything about Mrs. Richards.

The COURT.—I will permit it.

Exception.

WITNESS.—Well, from what I learned from Mrs. Richards, it seems my mother had made a deed giving all her property to [183] George.

The COURT.—To George?

A. To George's children.

Q. To George's children?

A. To George's children, I should say, but previous to that I heard that the home was given to him, the Kalihi homestead was given to him.

Q. To George?

A. Yes. I was under the impression all the time, until Joe Clark abstracted the deed, that is when the trouble started.

Q. When did Joe Clark abstract the deed giving the information that it was all the property?

A. 1910.

Q. Sure of that?

A. Yes, I believe, that was when the trouble started, if I am not mistaken.

Q. What do you mean about the trouble?

A. Why this bringing up of this suit, she con-

(Testimony of Charley De La Nux.)

sulted me about it, and I told her to go see an attorney about it.

Q. Do you know if she did?

A. She did consult an attorney then; I don't know whether she kept it up; I didn't remain around the house very long. She went to Thayer's office, about the matter, and Thayer told her to come back again; she went on another "bat" and I suppose they let it go; I finally brought it up again.

Q. That is just hearsay—you know that of your own knowledge?

A. I know that she went to Thayer, the only proof I have of it is the deed; she went to Mrs. Richards.

Q. How long was that before he went to—came to me?

Mr. ANDREWS.—I object to this as not redirect.

The COURT.—Objection overruled. It is not redirect, but the Court will permit it. [184]

Q. How long was it before she came to you?

A. How long was it before she came to me?

Q. Yes, how long was this visit to Thayer—no, how long was this abstract of the deed made by Joe Clark before she came to you, do you remember?

A. 1910; I can't remember, I suppose, until three years ago, must be 1916, I suppose.

Mr. ANDREWS.—That is all.

**Testimony of Mrs. Charles A. De La Nux, for  
Petitioner.**

Direct examination of Mrs. CHARLES A. DE LA NUX, called for petitioner, and sworn, testified as follows:

By Mr. LARNACH.—Your name, please?

A. Mrs. Charles A. De La Nux.

Q. And you are the wife of Mr. De La Nux, who has just preceded you on the stand? A. Yes.

Q. How long have you been married?

A. Four years.

Q. Lived with him right here in Honolulu?

A. In Castner.

Q. Do you know Mrs. Houghtailing, who is the complainant in this suit? A. Yes, I do.

Q. Do you know Mr. George De La Nux who sits here with his counsel, Mr. Andrews?

A. I met him twice.

Q. When did you first meet him? [185]

A. At Mr. Breckons,—Mr. Larnach and my mother-in-law and Mrs. Richards went to his residence, the day we went there.

Q. Whose place, where? A. Aiea.

Q. For what visit was this—for what purpose was this visit made?

A. It was to consult over the deed.

Q. And do you remember who was in the party?

A. Yes, I do.

Q. Who were they, in the party, please?

A. Mr. Breckons, Mr. Larnach, Mrs. Henry Richards my mother-in-law and myself.



(Testimony of Mrs. Charles A. De La Nux.)

Q. We started from Honolulu in an automobile and went to Aiea?

A. Well, we started from my mother-in-law's home.

Q. When we arrived at Aiea, where did we go?

A. All went to the sitting-room.

Q. In whose house?     A. George De La Nux.

Q. Who met us there, if anyone?     A. His wife.

Q. Mrs. Lahapa De La Nux?     A. Yes.

Q. Was she friendly?

A. Well, yes, she did; she was, yes.

Q. What style of greeting, if any, took place?

A. Kissed one another, and after awhile Mrs. George De La Nux brought out some gin.

Q. Now where was George during this time?

A. Well, I believe he was at work then, it was afterwards he ran home.

Q. And did George De La Nux appear while the party you have [186] mentioned was at his house?

A. Yes, he did.

Q. Do you know how many times liquor was indulged in there, if at all?

A. Well, I remember when we first got there, Mrs. George De La Nux brought out some gin, after we left we all took another drink.

Q. What do you mean, after we left?

A. After everything was over.

Q. Now what took place down there, when do you mean, after everything was over?

A. Well, you and Mr. Breckons spoke to Mr. George concerning the deed.

(Testimony of Mrs. Charles A. De La Nux.)

Q. Yes, do you remember what was said; if so, please tell us?

A. Well, just the very words you used I don't remember, but you spoke to him that the deed that was made that my mother-in-law only intended thr Kalihi homestead.

Q. Did Mrs. Houghtailing say anything to George?

A. She did.

Q. What did she say?

A. She said, "Sonny, you know I was jiggling."

Q. Did Mr. George answer that?

A. He did.

Q. What did he say?

A. "It is up to you mother, Mama, just what you say I will agree to."

Q. Was the party friendly at that time?

A. Yes, that is, what do you mean, before this?

Q. Yes, say when that business was ended and parting was had, was there a friendliness exhibited or ill-feeling?

A. Friendly, you could see everything was agreed.

[187]

Q. What do you mean by that?

A. Well, he said that, "Just what you say mother agrees me."

Q. Was there any kissing and wailing on the part of anyone?      A. Yes.

Q. Who?      A. My mother-in-law.

The COURT.—Any crying?

A. My mother-in-law did.

Q. Anybody join in?

(Testimony of Mrs. Charles A. De La Nux.)

A. Well, there were tears.

Mr. LARNACH.—Tears and gin were mixed, were they not?     A. Yes.

Q. Do you remember when that was Mrs. De La Nux?     A. That was in the year 1916.

Q. Do you remember anything being said about a paper, Mrs. De La Nux?     A. Yes, I do.

Q. What was said about the paper?

A. Well, it was in the year 1916 that I heard—overheard Mrs. Richards and my mother-in-law talking.

Q. Was there anything said by anyone during that conversation about any paper?

A. Yes, you spoke to George about the deed, and he promised to come down the following day.

Mr. LARNACH.—Take the witness.

Cross-examination.

By Mr. ANDREWS.—Are you the young lady that testified in the Parke case?     A. Yes.

Q. You testified you were a servant for Mr. Parke?

A. Yes. [188]

Q. Manuel Richards is a relation of yours?

A. He is an uncle of mine.

Q. You know that he testified that your truth and veracity were very bad?

A. He has got to prove that, that has nothing to do with this case.

Mr. LARNACH.—We object to that—

The COURT.—Objection sustained.

Mr. ANDREWS.—Mrs. Parke lost that case, didn't she?     A. Yes.

(Testimony of Mrs. Charles A. De La Nux.)

The COURT.—What took place in that case can't affect this case.

Mr. LARNACH.—Mr. Andrews agrees that the valuation of the property, the homestead of Mrs. Houghtailing's, in 1905 and 1904, was fifteen hundred (\$1,500) dollars for the land and thirty-five hundred (\$3,500.00) for the improvements.

The COURT.—Five thousand dollars?

A. Five thousand dollars. That was handed to me personally by the tax office.

The COURT.—That is the tax office value?

Mr. LARNACH.—Yes, the tax office value.

The COURT.—How big is that property—where is that property?

Mr. LARNACH.—Kamehameha Fourth road, comprises two houses that were originally placed on the market by Bruce-Waring.

The COURT.—Mrs. Cockett, where is this property belonging to Mrs. Houghtailing?

Mrs. COCKETT.—Directly opposite the Catholic church on the Kamehameha IV Road, near Wong Young's place. Wong Young's place is a little below Aiau.

The COURT.—What is the area? [189]

Mr. WITHINGTON.—It is a little less than half an acre. Mr. Andrews has kindly consented that we may put it in.

The COURT.—What is the frontage?

A. Two hundred and four (204) feet.

Mr. WITHINGTON.—Mr. Andrews has kindly consented that we may recall Mr. Lawrence Robin-

(Testimony of Mrs. Charles A. De La Nux.)

son at any time; we neglected to ask him something in regard to whether this amount which Mr. Steere testified to they claimed; whether there was a deed existing in 1905; we haven't been able to locate him this morning.

With the exception of those two things, we rest.

Petitioner rests.

### RESPONDENTS' CASE.

#### **Testimony of George Anson Richards, for Respondents.**

Direct examination of Mr. GEORGE ANSON RICHARDS, called for respondents, sworn, testified as follows:

Mr. ANDREWS.—What is your name?

A. George A. Richards.

Q. Where do you live Mr. Richards?     A. Kauai.

Q. Do you know Mrs. Rebecca Houghtailing, the lady sitting here?     A. Yes.

Q. In 1916 did you visit her at her home in Kalihi?

A. Yes.

Q. *How* will you just tell us what occurred, whether [190] was any trouble between herself and Henry, any conversation occur between you after that, any conversation occur between you and her after that?

Mr. WITHINGTON.—This for the purpose of contradicting?

Mr. ANDREWS.—Yes.

Mr. WITHINGTON.—I submit there hasn't been any compliance with the rule in this case, time and place, no foundation laid.

(Testimony of George Anson Richards.)

The COURT.—I remember some questions along this line.

(Reporter reads testimony on page 111:)

“Q. Do you know George Richards?”

“A. No.

“Q. Do you know George Richardson?”

“A. I don’t remember anyway, maybe I do, know him by sight.

“Do you remember any persons, any third person, of your having a fight, having a row with Henry in 1916; and you told this man that Henry was fighting you because you had given all your property to George because the other children didn’t treat you right, that Henry was robbing you.”

“A. No, I don’t remember.

“Q. Do you remember this man, this Mr. Richardson or Richards, while you were living at Aiea you invited him down there to come and see you, you don’t remember that at all”?

“A. No, I do not.”

The COURT.—It seems, Mr. Andrews called the attention of the witness to the time and place, and she didn’t quite remember the particular person by name, she might have known him. I will permit you to cross-examine Mrs. Houghtailing, on that proposition, and she may remember this man by sight.

**Testimony of Rebecca Houghtailing, for Respondents.**

Mrs. REBECCA HOUGHTAILING, recalled to the stand for further examination.

By Mr. ANDREWS.—Now, Mrs. Houghtailing, you remember I asked you if you knew George Richards or Richardson?

A. I do.

Q. I mean this gentleman?      A. I know him now.

Q. Do you remember in 1916, which I asked you before, at your house, he being there?

A. He was at my house.

Q. He was living with you for awhile?

A. No, came over for a visit.

Q. Did he stay more than a night—how long did he stay?      A. About, that evening.

Q. Then went away?      A. Yes, sure.

Q. Do you remember a row with Henry?

A. I do not, because while he was staying there we were drinking, that is, I did, had been, and he came there to drink, he is fond of it himself.

Q. Did he ask you what the trouble was?

A. That I don't remember, Mr. Andrews.

Q. And you replied that because you had given all your property to George, because your other children hadn't treated you right?

A. I told you another time I didn't remember, because when he came there we came for *for* enjoyment, didn't come there for talking anything, about anything at all, only pleasure, drinks, and so forth, that is all.

(Testimony of Mrs. Rebecca Houghtailing.)

The COURT.—Did you have any quarrel that night when he was there? [192]

A. That I can't remember, because I was under the influence of liquor, sure.

Q. Sure you were under the influence of liquor?

A. Sure, I am sure of being under the influence of liquor.

Q. You remember being—his being there?

A. Of course he came there when I wasn't exactly drunk, that is, whatever they call it.

Q. You remember two days after that Mr. Richards going down to Aiea?

A. Yes, I remember, I took him to see my son.

Q. You asked him to come down and wanted to introduce him to your son George? A. Yes.

Q. During that conversation did you tell him that you had given George all your property because the other children had never treated you right?

A. Oh, that thing wasn't bothering my brain then, wasn't in my brain.

Q. When you were down at Aiea were you drinking there when you were talking to him?

A. I was feeling good on the car or machine, and had some on the machine with us.

The COURT.—Had some what?

WITNESS—Some gin.

Mr. ANDREWS.—Did you say that or didn't you?  
(Referring to previous question.)

A. No.

Q. You didn't say that?

A. I didn't say that, at least I don't remember



(Testimony of Mrs. Rebecca Houghtailing.)

saying that, that idea I didn't—that thing wasn't coming into my brain, it was only enjoyment. [193]

Q. Are you sure you were drinking at both these times? A. More or less.

Q. Well, were you so drunk you can't remember what happened?

A. My goodness, you mean to say because I was drinking I don't remember, even now without any drink I forget sometimes.

Q. You are pretty smart for a lady sixty-three years old? A. How is that?

Q. You are pretty clever, Mrs. Houghtailing?

A. Oh, dear me.

Q. Just listen to me: do you mean to say you were so drunk on those two occasions you don't know what you said, is that what you mean?

A. You know when a person is under the influence they will say anything without being so drunk and then pass away and forget it.

Q. Well, you were so much under the influence you didn't, don't remember what you said?

A. I don't remember, sure.

Mr. ANDREWS.—That is all.

The COURT.—What do you claim she said at the Kalihi home on Kamehameha IV Road?

Mr. ANDREWS.—The testimony will be, it is the second time; my understanding of the testimony is this; that she was having a fight with Henry, and the old gentleman asked her what was the trouble, something to the effect that Henry was fighting with her because she had given all her property to George

(Testimony of Mrs. Rebecca Houghtailing.)

and the other children didn't treat her right, that is why she had given it; then she invited him the next day to come down and meet George, George was a fine boy, and she was proud of him; then practically repeated that conversation in the car going down. Mr. Richards will testify that she was apparently all right. [194]

The COURT.—(To witness.) Did you have any conversation like this on the car or machine?

A. It was on the automobile.

Q. Did you have any conversation like that?

A. No. It seems so funny; it seems every time it comes out I am always or there is a party coming in and I am having a row with my son, just like this, another one comes in, I am having a row with my son, my son is having a row with me about the property, I am having a row over this property, each person comes in and tells that.

The COURT.—Did you have a row with your son at the time George Richards was at your house?

A. I did not.

Q. You did not or you don't remember?

A. I don't remember, that is why I say I don't know.

Mr. WITHINGTON.—Who were in the car going out?

A. I think there was another gentleman by the name of, I don't know his name now, maybe he remember who this is.

Q. Who provided the car?      A. I did.

Q. Then you were going out to George's?

(Testimony of George Richards.)

A. Yes, going down to Maunalua, anywheres, I am willing to take them around.

**Testimony of George Richards, for Respondents.**

GEORGE RICHARDS, recalled.

By Mr. ANDREWS.—Mr. Richards, you have just heard Mrs. Houghtailing, and my questions to Mrs. Houghtailing, did you not?

A. Yes.

Q. Now were you at her house some time in 1916 at her [195] invitation when there was trouble between herself and Henry?

A. Henry he told me he didn't like the mother because she gave the property, willed the property all away to George.

Mr. WITHINGTON.—I move to strike it all out as not responsive.

Mr. ANDREWS—You were there?

A. Yes, I was there.

Q. Now tell us please, let the other be stricken out—now will you please tell us then what happened when you were there, tell us over again, Henry said what to you?

The COURT.—Motion to strike granted.

WITNESS.—Told me he didn't like the way she acted because she willed all her property away to her son, she ought to will it to all of them.

Q. What did she say to you, and did you say anything to her?      A. Yes.

Q. What did you say to her?

A. After I said, "Is that right?" And she said,

(Testimony of George Richards.)

“Yes, she willed the property to George.”

Q. After that—Oh, was she drunk at that time?

A. Oh, pretty loaded.

Q. Did she know what she was doing and saying?

A. Oh, yes.

Q. She was in her right senses?      A. Yes.

Q. Now then after that did you go anywhere with her?

A. Yes, we came down to the moving picture in town here that night.

Q. And after that did you go anywhere?

A. Two days after that.

Q. Where did you go with her?      A. At Aiea.

[196]

Q. At whose request?      A. Hers.

Q. Now what did she tell you?

A. Told me to come down there to see her son George.

Q. Son who?      A. George.

Q. Did she say anything about George to you?

A. No.

Q. Did she say anything while she was either on the way down there or about her property or George or anything?

A. Well, down to George's house she said she willed all her property to George, willed her property to George.

Q. Was that in George's house?

A. That was in George's house, yes.

Q. And who was present when she told you that she had *will* all her property to George?

(Testimony of George Richards.)

A. Me and George and his wife and Mrs. Kaae and Makaanai.

Q. Will you tell us just what you remember Mrs. Houghtailing said?

A. She said she willed her property to George, that is all I heard.

Q. Did she say anything about her boys or any reason why she did it?     A. Yes.

Q. What did she say?

A. Because of the other boys.

Q. Did she give any reason?     A. She says—

Mr. WITHINGTON.—I object to that, what was said is the question; you asked—

The COURT.—What was said—

Mr. ANDREWS.—All right, what was said? [197]

A. The other boys didn't treat her well, or right.

Q. Did she say how they didn't treat her right?

A. No.

The COURT.—She said that she had willed the property to George, is that it, all the property to George?

A. All the property? I don't know, I didn't take much notice.

Q. What do you remember she said?

A. She said she will her property.

Q. "Her property"?     A. Her property.

Q. To George?     A. To George.

Q. Did she say she willed her property to George and his wife?     A. No, to George.

Q. Just George?     A. Yes.

Mr. ANDREWS.—That is all.

Mr. LARNACH.—That is all.

**Testimony of Mrs. Kaae Haeho, for Respondents.**

Direct examination of Mrs. KAAE HAEHO, called for respondents, sworn, testified as follows:

Mr. ANDREWS.—What is your name, please?

A. Mrs. Kaae Haeho.

Q. You were Mrs. Jesse Kaae?

A. Yes, he is dead.

Q. And Mr. Haeho, he is dead too?      A. Yes.

Q. Do you remember Mrs. Houghtailing? [198]

A. Yes.

Q. How long have you know her?

A. That same day we went down with Mr. Richards.

Q. Didn't you know her before that?

A. Mrs. Houghtailing, oh, I know her when she was a girl.

Q. You have known her when a small girl until now?      A. Yes.

Q. Did you have any talk with her at her house about the question of her deeding her property?

A. It was she brought the subject up.

Q. When was that?      A. That was in 1915.

Q. Now will you please tell us just what happened? Tell the Court.

A. We were all alone that day at her house.

Mr. WITHINGTON.—I don't remember any conversation laid for this in 1915.

Mr. ANDREWS.—If the Court please there was, this statement, showing that she did know that she deeded the property and her reasons for it.

(Testimony of Mrs. Kaae Haeho.)

The COURT.—Have you laid the proper foundation?

Mr. ANDREWS.—This is not impeaching, if the Court please. This is proof that she knew that she had deeded this property to her son George, she has denied that over and over again. Not that she had made one statement at one time and another statement at another time, it is contradicting the fact that she testified to, it is a material fact.

The COURT.—She testified now that she didn't know about making—about that deed, that she conveyed all her property; you examined her upon that point. Now you are putting on testimony to show that she made statements contrary to the [199] statements she is making now, that she did know. If the Court believes the testimony of the present witness the Court can use that for the purpose of determining the question that she did know; still you have to lay the foundation.

Mr. ANDREWS.—If the Court please, of course it is very hard for us, this testimony just came to me yesterday.

Mr. WITHINGTON.—We do not object to her being recalled if counsel do not connect up the testimony.

The COURT.—You ought to recall her for the purpose of laying the foundation.

Mr. ANDREWS.—I will recall Mrs. Kaae for the time being and put her on to-morrow.

**Testimony of Mrs. Edward Charles Henry, for Respondents.**

Direct examination of Mrs. EDWARD CHARLES HENRY, called for respondents, sworn, testified as follows:

Mr. ANDREWS.—What is your name?

A. Mrs. Edward Charles Henry.

Q. Where do you live Mrs. Henry?

A. 1030 Kamali Street.

Q. Do you know Mrs. Houghtailing.      A. Yes.

Q. In March, 1917, did you go to her live at her house?      A. Yes.

Q. Where was that house you went to live?

A. Kamehameha IV Road.

Q. At that time was she living there or was she living somewhere else?

A. She was living at that time at her son George's.  
[200]

Q. At Aiea?      A. Yes.

Q. After she came back from there did you continue to live at her house?      A. Yes.

Q. Now after she came home did you and she have any conversation as to her property, and her son George?      A. Yes.

Q. Tell us what she said to you?

A. She said that she had made a deed to her son George, and then she, now she come to realize that she was sorry that she did, and she wanted a deed for the other two boys that she had.

Q. And was she intoxicated at the time she made that statement to you?      A. No.



(Testimony of Mrs. Edward Charles Henry.)

Q. How long did you live at the house?

A. Between eight and seven months.

Q. During that time was—have you heard the testimony of the witnesses, that Mrs. Houghtailing was drinking all the time—witnesses on the other side, as to her being drunk, what will you say during those six or seven months you lived at her house?

A. She wasn't drinking all the time.

Q. Well, what was her condition? Just tell the Judge.

A. She was in her right senses and always been until the case start in here, and she started to drink again.

The COURT.—Did she quit drinking in 1910?

A. Yes, for three or four months.

Q. That is when she got sick?

A. When she got sick she didn't drink that time.

Mr. ANDREWS.—Now, did you hear any quarrel between her and Henry? [201]

A. When they are drunk, yes, they have some quarrel.

Q. What was said if anything about this property when they were quarreling?

A. Well, Henry was asking the mother, "What made you give the land and property to George?"

Q. Yes.

A. She told him, that you boys were mean to me, that is what made me make a deed over to George.

Q. Now, at that time when she was quarrelling with Henry was she in her right senses—telling that to Henry?

(Testimony of Mrs. Edward Charles Henry.)

A. Well, they were, they had a little drink, of course.

Q. Did she seem to know what she was saying?

A. Yes.

Q. Now, then, did she ever deny in your presence or say to you that she had denied ever giving her property to George?

Mr. WITHINGTON.—I object to that; I don't remember anything of that kind.

The COURT.—She wasn't charged with the duty of denying it to this witness.

Objection sustained.

Mr. ANDREWS.—Now, do you remember the occasion of Mrs. Houghtailing getting sick?

A. Yes.

Q. Was she very sick, or just a little sick?

A. Yes. She was very sick.

Q. Did she say anything to you about this matter, what did she say to you if anything?

A. To go and call for George.

Q. Did she say what she wanted him to do—tell you what she wanted him to do?

A. She wanted to have a talk with him over the deed she made. [202]

Q. What did she want done if anything?

A. She wanted to have it all made out again and made out to him.

Q. Instead of to whom?

A. Instead of the other two boys.

Q. What other two boys?

A. Henry and Charles.

(Testimony of Mrs. Edward Charles Henry.)

Q. Now, let me see, when did this happen; when was this that she was sick?

A. The same year, 1917.

Q. Had she made it out to the other two boys?

A. What is that?

Q. Tell us what she said, as near as you can remember, you say she sent for George; what did she say?

A. George didn't come up at the time, and couldn't get him by telephone.

Q. What did she tell you that she wanted to see George for?

A. Just to straighten out things, that is all I know, over the deed she made.

The COURT.—Tell us what she said.

WITNESS.—That is all.

Q. What was it?

A. She said she wanted to straighten out the deed with George, that he will have all, it is up to him to divide up among the other two boys.

Q. Did she say anything about having given it to George's two children, do you remember?

A. No, I don't remember that.

Q. You don't remember?      A. No.

Q. You don't remember whether she wanted to change from the two children to George? [203]

Mr. WITHINGTON.—I submit, I object—

WITNESS.—No.

Objection sustained.

Mr. ANDREWS.—That is all.

Mr. WITHINGTON.—That is all.

**Testimony of Mrs. Lucy Kauhane, for Respondents.**

Direct examination of Mrs. LUCY KAUHANE, called for respondents, sworn, testified as follows:

Mr. ANDREWS.—What is your name?

A. Mrs. Lucy Kauhane.

Q. In 1899 where were you living?

A. In Hawaii (Kauai).

Q. Did you know George De La Nux at that time?

A. Yes.

Q. Where was he living?      A. Kauai (Hawaii).

Q. Well, what part of Kauai (Hawaii)?

A. Hamakua, Paauhau plantation.

Q. With whom was he living, was he married then?

A. With Lahapa, Mrs. De La Nux now.

Q. They were living there and he was working on the plantation?      A. Yes.

Q. Where were you living?

A. At Hamakua, Honokaa.

Q. With them or near them or what?

A. Near them.

Q. Do you know Mrs. Houghtailing?

A. Yes. [204]

Q. Do you remember her coming up there?

A. Yes.

Q. Now, did you hear any conversation, or do you know of any conversation, you know of your own knowledge of any conversation Mrs. Houghtailing had with George?      A. Yes.

Q. What was said, what did she want?

A. Urged George to come to Honolulu and quit working, and George said he was brought up to work,

(Testimony of Mrs. Lucy Kauhane.)

he couldn't go without working; well, she says, "I want you to come, son; you are the favorite son, and you have been away so long, so you must come along; you need not work, mother has money to provide for us"; so George says, if he should come he must work; could not go without work, because he was brought up to work.

Q. Did he come at that time?

A. He did not. I came here to school before he did.

Q. At the *the* time that Mrs. Houghtailing said these things to him *what* she sober or intoxicated?

A. Sober.

Q. Now then, when did you come to Honolulu?

A. 1899.

Q. What was your reason for coming to Honolulu?

A. To attend Normal School.

Q. Did you use to go to Mrs. Houghtailing's house down here? A. Yes.

The COURT.—When was that conversation, in 1905? A. 1899.

The COURT.—And you came to Honolulu in 1899?

A. Yes, before the opening of school; this was during the [205] summer the conversation was held.

Mr. ANDREWS.—Now do you remember a conversation between Mrs. Houghtailing and George De La Nux after you came to Honolulu in her house about her property?

A. Well, it is after I got married and lived at Aiea.

Q. How long—what year was that, about, do you know? A. I cannot exactly remember the year.

(Testimony of Mrs. Lucy Kauhane.)

Q. A good many years ago? A. Yes.

Q. Was it before 1905 or after do you know?

A. I think it was after 1905.

Q. You don't know? A. I can't remember that.

Q. What was the conversation anyhow?

A. Well, the conversation then, she wanted her property fixed—

Mr. WITHINGTON.—Now, I think, this is absolutely new to me.

Mr. ANDREWS.—When did you go to Aiea?

A. About 1902 I think, my husband had work on the plantation.

Q. How long after you got to Aiea was this conversation can you tell us?

The COURT.—The conversation between—

Mr. ANDREWS.—Overheard between Mrs. Houghtailing and George De La Nux.

WITNESS.—During the time my husband was—during the time I was living at Aiea my husband worked at the plantation, but I can't remember exactly what year it was, it is so long ago, way back, I didn't think anything would happen.

The COURT.—I think it is sufficiently close.

Q. Can you, will you, tell us where this, where was this conversation that you heard?

A. In George's house.

Q. Who was there? [206]

A. George De La Nux, myself and Mrs. Houghtailing, and Mrs. Lahapa De La Nux.

Q. Now what—tell us all you remember of that conversation?

(Testimony of Mrs. Lucy Kauhane.)

A. She told George that she wanted to have things straightened up about her property, I don't know how much property she has, but she said her property, because George had a son then, then she told George, he wanted to have the thing fixed onto his son—to George and his son, so George expected another child, so that George told her to wait until the second child was born, so after the second child was born then she asked again to have the thing straightened up, so George said, "Go along."

The COURT.—That is another conversation?

A. At the same time she said she wanted George to have the things fixed up, because George had only one child and he expected another one he preferred to have it left until the other child was born because—

Q. Was anything said about George's other brothers by anyone?

A. Because they were abusing her, didn't treat her as a mother.

Q. How did that come up, that question about their—about the other sons abusing her?

A. I don't know how, she brought it up herself, I don't know how.

Q. When she spoke to George about, this, let me refresh your memory, didn't George said, "I want to leave—there are three of us, I want you to leave it to all of us."

A. He did say that, he said he didn't want it all, but she said, "No," they don't treat her as a mother.

Q. Now how long did you live at Aiea? Have you

(Testimony of Mrs. Lucy Kauhane.)

lived there long? A. No, I am living in town.  
[207]

Q. How long did you and your husband live down there?

A. For one year and *the* he quit, then we moved and came to town, about two years in town, went back again to the plantation to the pump, Waimalo pump.

Q. How long have you work—how long did you stay down there? A. About two years I think.

Q. Two more years?

A. Then we moved back again in town.

Q. Did you use to go down to Aiea and live at George's house? A. Yes.

Q. How long would you stay at a time?

A. A week sometimes.

Q. And you remember Mrs. Houghtailing coming there to the house while you were staying at George's house? A. Yes.

Q. What would be the conversation, what would she want down there? A. About her property.

Q. About her property, tell us and the Court?

A. Tell about her property, to have it fixed, straightened up, get it done with, have the matter fixed, and George would put it off to go to work, he had plenty to do, wait until later on, about the brothers, she would urge him to—

Mr. WITHINGTON.—Do you claim this under your cross-examination?

Mr. ANDREWS.—Yes.

Q. Now, what was her condition at this time, was she sober or intoxicated?



(Testimony of Mrs. Lucy Kauhane.)

A. Sober all that time when I heard her talking, she came to Aiea she was sober, not drunk.

Q. All these occasions as far as you remember—  
Now in 1917, you remember Mrs. Houghtailing coming to Aiea?     A. Yes. [208]

Q. And stopped at George's house?     A. Yes.

Q. Do you remember her making any statment to George about himself and the property at that time,—you remember this—do you remember any conversation which—when she came down to live in 1917 at George's house at Aiea, did she make any statement to him about the property now that you remember, were you down there then?

A. Yes, I was down there for awhile, I didn't stay there very long.

Q. Let me refresh your memory?

The COURT.—1917?

Mr. ANDREWS.—Yes. Were you down there?

A. Yes, 1917 and 1918, I am there nearly all the time, off and on, the De La Nux place, that is the only place I go to.

Q. Were you down there in 1917 when the mother was there?

A. I was there quite a number of times when she was down there too.

Q. Did you hear any conversation between them?

A. Yes, I hear them talk.

Q. What did they talk about?

A. Talked about this property, was glad she had given it to George and his children, all like that.

Q. George De La Nux?

(Testimony of Mrs. Lucy Kauhane.)

A. George De La Nux and his children.

The COURT.—At the time they talked, way back in 1902 and 1903, when they only had one child, did the mother say she wanted to give the property to George himself or the child?

A. To George and the child, but George was expecting another one soon to come.

Q. And George said to wait until the other one arrived? [209]

A. Yes, wait until the other one arrived, after the second child arrives, and she kept on asking him to get, to come on son, don't neglect it, don't let it go too long.

Q. What did George say?

A. He said, he had two brothers, he didn't want to grab it all, she had two sons, and she said they were not, never mind, "they aren't treating me very well."

Q. Did *she* anything about the other grandchild, Bathsheba?

A. Didn't hear her say anything about them, only about brother George's children.

Q. Did George say anything about the grandchild?

A. No, he always spoke of his brothers, he wanted them—he didn't want it all, because he had two brothers besides.

That is all.

Cross-examination.

By Mr. LARNACH.—You say that Mrs. Hough-tailing wanted Mr. George De La Nux to come to town so as to fix up this transfer of the property?

A. Yes.

(Testimony of Mrs. Lucy Kauhane.)

Q. Did she tell George why it was necessary for George to come into town to have this fixed?

A. She wanted it fixed, and she didn't want this quarreling, and besides she *didn't* the other two to have it.

Q. She wanted George to have it fixed?

A. To attend to fixing the papers.

Q. Not anybody else?

The COURT.—Did George come to town and have the papers fixed?

A. Later on, not when she asked him, the other time she asked him.

Q. Do you know whether or not he did come down and fix them? [210]

A. She asked him very badly, he had to come to fulfill—

Q. Do you know whether or not he did come?

A. He did come along with his mother, not by himself, the time that he had this thing fixed he came along with his mother and stopped at my house?

Q. Stopped where?

A. At my house, they all stopped at my house to have these things fixed, I didn't know that they were going to have this thing fixed, I heard of it long afterwards, that he had come to town to have it fixed.

Q. Who do you mean, they all stopped at my house, Mrs. Lahapa De La Nux and Mrs. Houghtailing?

A. Yes, Mrs. Lahapa stopped at my house, and George and his mother come to my house.

The COURT.—Did George ever tell you that he fixed it up?

(Testimony of Mrs. Lucy Kauhane.)

A. No, he never told me anything about it.

Mr. LARNACH.—Do you know when Mrs. Houghtailing made the statement that you said she made to you in 1917 about George and the property, that Mrs. Houghtailing had already a guardian appointed and that there was a suit pending against George—in 1917?

A. I don't understand?

The COURT.—In 1917, did George De La Nux or anybody tell you that his mother was—had a guardian appointed for her, or someone appointed guardian for her?

A. I never heard George tell me, that I don't know anything, about it.

Q. Did anybody tell you?

A. I don't know if she has a guardian to-day or not.

Q. Did she tell you that Mrs. Houghtailing, that a guardian had been appointed for her? [211]

A. I haven't heard that, I don't know whether she has any guardian to-day or not.

Mr. LARNACH.—Did you know anything in 1917 about a suit that was brought by Mrs. Houghtailing against George?

A. That is once they came for me to appear in Mr. Andrew's office.

Q. When was that?

A. In 1917, I don't know the date.

Q. They brought a suit in 1917?      A. Yes.

Q. Was that before or after you heard this statement made by Mrs. Houghtailing?

(Testimony of Mrs. Lucy Kauhane.)

A. They had—suit had already been begun.

Q. You heard this statement made by Mrs. Houghtailing after the suit was begun?

Mr. ANDREWS.—Never said anything of the kind.

Mr. LARNACH.—I am asking her, I have the same privilege of asking her, with the permission of the Court.

Mr. ANDREWS.—We object—

The COURT.—Heard what statement?

Mr. LARNACH.—The statement of Mrs. Houghtailing about her property here, giving it to her son George.

Objection overruled.

WITNESS.—I don't understand that.

The COURT.—Did Mrs. Houghtailing tell you in 1917 that she was glad she gave the property over to George?

A. Yes, she did say that.

Q. Did you hear that after you found out suit had been begun?

A. After the suit was begun I never had any conversation with Mrs. Houghtailing at all.

Q. When was the suit begun? [212]

A. I don't know when the suit was begun, but I know they had sent for me in 1917; I know what month it was, I remember what month and the date they sent for me, I had to appear in Andrew's office.

Q. Was that after she had told you or before she told you?

(Testimony of Mrs. Lucy Kauhane.)

A. That was after she had told me that she was glad George was to—

Q. That was first? A. Yes.

Q. Then heard about it afterwards?

A. Heard about the suit afterwards.

Q. Who asked you to go down to Mr. Andrew's office? A. They sent a note.

Q. Who?

A. I don't know the name of the lawyer, I can't remember, it is so long ago, I didn't think the thing would be so—

Q. Mrs. Houghtailing?

A. No, it was a writing to come to appear in Mr. Andrew's office as a witness, I have forgotten.

Q. Did you use to go to Mrs. Houghtailing's house?

A. When I was attending school I used to go there.

Q. Do—did you know Bathsehba? A. I did not.

Q. Henry's daughter?

A. I seen her when she was a baby, I knew her when she was a baby, not when she came to be a woman.

Mr. LARNACH.—Did you notice her there at Mrs. Houghtailing's house during the years 1908, 9, 10, 11, 12, on? A. 1912 on I never go there.

Q. When did you visit Mrs. Houghtailing?

A. When I was attending school. [213]

Q. When was that? A. 1899 on to 1901.

Q. After 1901 you ceased visiting.

A. Ceased visiting, often meet her at George's place, that is where I used to meet her.

Q. You used to visit George's place quite fre-

(Testimony of Mrs. Lucy Kauhane.)

quently, didn't you?     A. Yes.

Q. You are quite a friend of George and his wife Lahapa?     A. First cousins.

The COURT.—You and Lahapa are first cousins?

A. Yes.

Mr. LARNACH.—When you met Mrs. Houghtailing at George's place at any time were any of Mrs. Houghtailing's grandchildren mentioned?

A. When she was there I remember saying, when I am there too, she always mentioned about George's oldest child.

The COURT.—George's oldest son?

A. Yes.

Q. Anybody else, any other grandchild?

A. Never mentioned anybody else.

Mr. LARNACH.—Never mentioned Kulamanu or Bathsheba?

A. No.

Q. Never mentioned any of Henry's children?

A. Never heard her mention any of Henry's children, all I hear her talking about is George's oldest child, oldest son, never even mentioned about the youngest, but always about the oldest one.

That is all.

That is all.

The COURT.—This case will be continued until to-morrow morning at nine o'clock. [214]

Thursday, June 19, 1919, 9 o'clock A. M.

**Testimony of Judge Wm. L. Whitney, for Respondents.**

Direct examination of Judge WM. L. WHITNEY, called for respondents, sworn, testified as follows:

By Mr. ANDREWS.—Judge Whitney, you are a practicing attorney of this court?

A. I am.

Q. In the year 1917 you were Second Judge of this Circuit Court here? A. I was a part of the time.

Q. On the 14th of February, 1917? A. I was.

Q. Do you know Rebecca Houghtailing?

A. I do.

Q. Do you remember—handing you exhibit—Defendant's Exhibit No. 2, do you remember drawing up that paper and having her execute it before you?

A. I do.

Q. Where did that take place, Judge?

A. In my chambers in the Mauka-Ewa corner of this building.

Q. Now, before she had come to you—before that was executed that deed had Mrs. Houghtailing come to see you about anything? A. She has.

Q. How many times?

A. Two or three times, I should think, three times prior to this.

Q. Had you seen George De La Nux who is mentioned in there, [215] have you ever seen him before this time, before the execution of this deed?

A. I had seen him a great many times, never to talk to him.



(Testimony of Judge Wm. L. Whitney.)

Q. Had you any business with him?

A. I had not.

Q. Had he consulted you about this power of attorney?     A. He had not.

Q. On the occasion of the drawing of this power of attorney will you kindly relate just what happened between—who was present, first, just what happened before it was signed.

MR. WITHINGTON.—How is that material?

MR. ANDREWS.—She said that George brought her to Judge Whitney; he was the one that wanted the power of attorney; it was his suggestion and they both did the talking.

MR. WITHINGTON.—Nothing that contradicts her testimony, doesn't say that particular son George was with her at Judge Whitney's office.

The COURT.—What is the objection?

MR. WITHINGTON.—How is it material; what do you expect to show?

MR. ANDREWS.—We expect to show that she went to—mind you, this is the time that she was saying that she was suing us, didn't want the property back, and all that; we want to show that she went to Judge Whitney's and asked to have Steere removed and her son placed in his place, made arrangements for this, and asked Judge Whitney, that Judge Whitney suggested a power of attorney, and at her suggestion agreement was drawn up, that George had nothing to do with it except to sit there.

Objection overruled.

(Testimony of Judge Wm. L. Whitney.)

Mr. WITHINGTON.—Withdraw objection to the question.

WITNESS.—Mr. George De La Nux, Mrs. Houghtailing and myself [216] were the only persons present, except at the time that I called in the clerk and told him to put on the seal.

Q. Judge, what conversation took place between yourself or George De La Nux and yourself or Mrs. Houghtailing and yourself, either at this time or before this time, in regard to this power of attorney, which resulted in the drawing of this power of attorney?

A. I had a second or third visit to me, Mrs. Houghtailing told—had told me that she was then living with her son George at Aiea, and that it was a considerable nuisance to her to come into town to see me about these matters she had been seeing me, and wanted to know if her son George couldn't handle the matter for her; I told her, certainly he could.

Q. What was the matter, may I ask?

A. This was the matter of getting money from Mr. Steere; she at first called upon me to complain about Mr. Steere, her guardian, that he was not giving her money enough to live on, that he wouldn't file an accounting; I didn't know Mr. Steere was her guardian at that time; I looked it up and found that Mr. Steere was her guardian, that his accounts were overdue, and I then wrote him a letter asking him to furnish the accounts. Mrs. Houghtailing came in again about this afterwards and asked me if I had received the accounts, and I said I had not. but that I would

(Testimony of Judge Wm. L. Whitney.)

write again, and I either wrote again or I saw Mr. Steere and had a conversation with Mr. Steere in which he told me his side of the story. Mrs. Houghtailing came again and asked me if the account had been filed, and I told her it had not at that time; she said it was a great nuisance to come in from Aiea and asked if he, her son, couldn't handle the matter for her, and I told her her son could and that it would require [217] only a simple power of attorney to give her son full authority to handle the matter for her. She—I don't remember the exact words, but she acquiesced in that matter, and I told her she better have her son come in with her, which she said she would do. Perhaps two or three days thereafter Mr. George De La Nux and Mrs. Houghtailing came in together and I said to Mr. Houghtailing—or Mr. De La Nux, your mother has suggested that you handle this matter for her, and would you be willing to do so; he said he would be willing to do so; I then stepped over to the typewriter and drew this, and Mrs. Houghtailing signed it; I called in the clerk and acknowledged it, she acknowledged it before me, and I called in the clerk and had him put the seal on.

Q. She understood what it was, Judge?   A. Yes.

Q. She wasn't intoxicated?   A. She was not.

Mr. ANDREWS.—My remembrance is that she testified that she was stupid.

Mr. LARNACH.—She said she wasn't under the influence of liquor.

Mr. ANDREWS.—Did she show any signs of

(Testimony of Judge Wm. L. Whitney.)

being stupid from the effects of liquor or anything else?

Mr. LARNACH.—I object to it on the ground this testimony was brought out on cross-examination, words put in the witness' mouth, and that he is bound by the answer in that case.

The COURT.—What is that?

Mr. LARNACH.—Withdrawn the objection; let him testify.

WITNESS.—She showed no signs.

Q. Did she show any signs of being under the effects of liquor? [218]

A. She didn't at the time of this agreement, that this was drawn.

Q. Now, was anything said at that time or any conversation in which she wished to have Mr. Steere removed? A. Yes.

Q. Will you please tell us about that?

A. Well, she said on more than one occasion that she wanted Mr. Steere removed, and on the second or third visit she said that she wanted her son George appointed as her guardian.

That is all.

#### Cross-examination.

Mr. LARNACH.—Judge, did I understand that Mrs. Houghtailing requested you to draw this power of attorney entrusting all her affairs to her son George?

A. It had nothing to do with is except the collection of moneys from Mr. Steere.

(Testimony of Judge Wm. L. Whitney.)

Q. That was all she requested you to empower her son to do?

A. The suggestion came from me; she didn't request me at all.

Q. You made the suggestion?

A. I made the suggestion.

Q. Was anything said by her which informed you that there was a suit pending between herself and George De La Nux?     A. There was not.

Q. Or that there had been any demand made on Mr. George De La Nux by Mrs. Houghtailing or her attorneys for a reformation of any deed?

A. There was not.

Q. You knew nothing of that?

A. I knew nothing of that.

Q. Did George inform you that his mother had independent counsel [219] hired on that occasion?

A. Did not.

Q. Then you did not know that demand had already been made on Mr. George De La Nux for and on behalf of his mother for the reformation of a certain deed?     A. I did not.

Q. Did you know anything about that deed?

A. I did not.

The COURT.—When was that suit filed, Judge?

Mr. LARNACH.—April, 1917, but demand was made on Mr. George De La Nux the early part of 1916.

The COURT.—Were you handling the equity division at that time, Judge?

WITNESS.—I think I was not; I was handling

(Testimony of Judge Wm. L. Whitney.)

the probate and divorce, criminal and land court; I think Judge Ashford was handling equity at that time.

The COURT.—Judge, you say you looked up the proceedings in court had in the matter of the application for the appointment of a guardian for Mrs. Rebecca Houghtailing

A. I didn't look up the papers, merely asked the clerk the fact as to whether Mr. Steere was her guardian.

A. You don't remember—

Mr. LARNACH.—Did you or did you not, showing Judge Whitney Plaintiff's Exhibit "E," and drawing attention to the order appointing the guardian, you don't remember signing that?

A. I see it was signed by myself; I don't remember signing it, it was signed by me..

Q. You didn't look up this order *appoint* a guardian for Rebecca Houghtailing at the time you drew that power of attorney, did you, Judge?

A. No, I didn't get the papers out at all. [220]

Q. You were not aware of the fact that she was put under a guardianship because of her over-indulgence in intoxicating liquor? A. Yes.

Q. You were aware of the fact?

A. I knew that was the reason; I knew that it was a spendthrift guardianship, so-called.

That is all.

That is all.

**Testimony of Lawrence Robinson, for Petitioner.**

Continued direct examination of LAWRENCE ROBINSON, called for petitioner, testified as follows:

By Mr. LARNACH.—Can you say, Mr. Robinson, the sum that Rebecca Houghtailing was indebted to your office, that is, to your father, Mr. Mark P. Robinson, on or about the year 1905?     A. Yes, \$6,400.

Q. That was by way of overdrafts and money advanced?     A. Over and above her income.

Q. Amounts that had been advanced to her, do you mean?     A. Yes.

Q. By Mark P. Robinson?     A. Yes.

Q. And when Mr. Steere was appointed how much money did she owe your father and your father's estate?     A. Over ten thousand dollars.

That is all.

That is all. [221]

**Testimony of Richard Westerbee, for Respondents.**

Direct examination of Mr. RICHARD WESTERBEE, called for respondent, sworn, testified as follows:

Mr. ANDREWS.—Your name, please?

A. Richard Westerbee.

Q. What is your business, Mr. Westerbee?

A. Master painter Honolulu plantation.

Q. Have been there very long?

A. Since February 10, 1911.

Q. Do you know George De La Nux?     A. I do.

(Testimony of Richard Westerbee.)

Q. Have known him ever since you have been on the plantation?

A. Know him for the last eighteen years.

Q. He is employed by—

A. The Honolulu Plantation.

Q. What is his position now?

A. Chief engineer.

Q. Do you know Mrs. Houghtailing?      A. I do.

Q. Did you see her on—during the years 1911 to 1915?      A. Not during the year 1911, no.

Q. When thereafter?      A. 1912.

Q. From then on until when?

A. From then on until, the last time I remember, I think it was last May a year ago.

Q. Where have you seen her most of the time?

A. At Mr. George De La Nux' house.

Q. In Aiea, and Halawa?

A. Yes, I don't remember seeing her at Halawa, but at Aiea. [222]

Q. At any other times have you seen her frequently or very seldom?

A. Why, I seen her frequently when she was down there.

Q. What was, would you say, as to her condition as to sobriety, whether she was intoxicated at the times you have seen her?

A. I never saw her intoxicated in my life.

Q. What about her conversation, rational or irrational, sensible?      A. Yes; sensible.

Q. Have you ever been with her any place where drink—where there was plenty of drinking?



(Testimony of Richard Westerbee.)

A. I have been at the house when there was liquor on the table; yes.

Q. Has she ever drank it?

A. Not in my presence, no.

Q. Have you ever heard of her speaking of the De La Nux children?     A. Yes.

Q. In what terms?

A. Terms of endearment; seemed to like them, think a great deal of the "hoopunas," as she called them.

Q. Spoke of them both as hoopunas?     A. Yes.

Q. Was anything said in your presence or to you about her relations with her other two sons?

A. No, not directly; I asked her one day where Charley was, and she just threw her hands up and didn't say anything.

Q. What did—what seemed to be her relations as far as George was concerned? What were—what seemed to be her relations with George during all the times you saw her? [223]

A. Very friendly and affectionate.

That is all.

Cross-examination.

Mr. WITHINGTON.—Now, you say you saw her frequently when she was there from 1912 to 1918?

A. 1918, May; that is the last time I saw her.

Q. When was she there?

A. Well, she was there on several occasions; I don't just remember the exact dates.

Q. Give us as near as you can some years.

A. I couldn't do that, either; the reason I met her

(Testimony of Richard Westerbee.)

there, because that was the first time I met her.

Q. Did you see her there in 1918?

A. Yes, May.

Q. She was there in May, 1918, when was the time before that you saw her there?

A. I don't remember.

Q. Well, was it one year or six years before?

A. Well, it must have been within six years; I didn't make any note of the dates or even put it down as a special occasion; I used to go to the house every day; I used to see her if she was there; if she wasn't there I wouldn't ask.

Q. I understand you to say that you saw her frequently when you were there; can you say one year before or six years before this other occasion when you saw her?

A. Oh, it was within the past three or four years; I have been up there several times, a good many times in fact, I used to go up there every night.

Q. I am not asking you whether you went there every night; when [224] was the last occasion before May, 1918, that you, that she was visiting George—you said it was within six years, I ask you whether it was one year or six years.

A. Might have been about eighteen months, I should think; I am not positive on that point, though.

Q. Now, when did you see her there before that time, if at all?      A. I could not say.

That is all.

**Testimony of Charles N. Arnold, for Respondents.**

Direct examination of CHARLES N. ARNOLD, called for respondent, sworn, testified as follows:

By Mr. ANDREWS.—Your name is Charles N. Arnold? A. It is.

Q. What position do you hold?

A. I am in charge of the Supply Department of the Honolulu Plantation.

Q. And have been in Aiea how long on that plantation? A. Almost eighteen years.

Q. Do you know Mr. George De La Nux?

A. I do.

Q. What position does he hold?

A. Chief engineer of the Honolulu Plantation.

Q. How long has he been there?

A. Oh, he has been there about nineteen years, twenty years.

Q. And his reputation down there is—

Mr. LARNACH.—I object to that; we haven't attacked it as yet; not competent, irrelevant and immaterial. [225]

Objection sustained.

Mr. ANDREWS.—You know Mrs. Houghtailing?

A. I do.

Q. How long have you known her?

A. Oh, I should judge about twenty years.

Q. What can you say of her—oh, during that time how well have you known her, in what places? Tell us, please, just in detail.

A. Well, I have known her, knew her intimately once when she was living with her husband Mr.

(Testimony of Charles N. Arnold.)

Houghtailing on Bethel Street; after a while I met her again at Waimalo where she was visiting her son while he was pumping there, her son George; later on, first met her at Aiea when George was night sugar boiler in Aiea; then again I met her several times in Waimalo when he was pump engineer, later I met her again in Aiea when he was mill engineer.

Q. More than once at these different places?

A. Oh, yes, several times.

Q. What can you say from your acquaintance with her, knowledge of her, as to her sobriety?

A. Well, I have never seen her anything but sober, any other condition but in a sober condition.

Q. Did she seem to be—could she talk sensibly, intelligibly about matters?

A. She has always when speaking to me.

Q. That is your testimony about every time you have seen her?     A. Yes.

Q. What were her relations with her son George during all these times that you have seen her at his house?     A. Seemed to be very friendly.

Q. Did you notice any—did anything occur that would show [226] her relations with George's two children at the time you saw her there

A. She seemed to be very much broken up at the death of one of George's children along in May last year.

Q. Before that time did you notice anything about her relations with the children?

A. She always seemed to think a great deal of

(Testimony of Charles N. Arnold.)

them, that is all I can say about that.

That is all.

Cross-examination.

Mr. WITHINGTON.—You saw her down there a year ago last May?

A. Yes, at the time Mr. De La Nux' young son died.

Q. The time the little child died?      A. Yes.

Q. She showed grief at the loss?      A. Naturally.

Q. So had you seen her down there before that?

A. I could not give you any dates or years, several times at the different places as I have mentioned.

Q. I was asking down there at Aiea?

A. Well, the first time I saw her in Aiea was in 1902, the beginning of the year.

Q. And when was the next time you can recall?

A. Possibly along about 1904 or '5 when Mr. De La Nux was engineer at Waimalo pumps.

Q. The next time?

A. Possibly in 1908 when he was in Halawa.

Q. When again?

A. Oh, several times after that, after he became mill engineer. [227]

Q. Can you identify any year?

A. No; I wouldn't attempt to, Mr. Withington.

That is all.

Redirect Examination.

Mr. ANDREWS.—You mean to say, Mr. Arnold, you only saw her once in these years?

A. No, several times.

The COURT.—Did you ever see her in Honolulu,

(Testimony of Charles N. Arnold.)

on the Kamehameha IV road, ever visit her place there?

A. I have seen her there, but never visited there, not to my recollection.

That is all.

### **Testimony of Jesse H. Makanai, for Respondents.**

Direct examination of JESSE H. MAKANAI, called for respondent, sworn, testified as follows:

By Mr. ANDREWS.—What is your name?

A. Jesse H. Makanai.

A. Where do you live?      A. Halawa.

Q. What is your business?

A. Working for the county, government work.

Q. Do you know Mr. George De La Nux?

A. Yes.

Q. You know where he lives?      A. At Aiea.

Q. You know Mrs. Rebecca Houghtailing?

A. Yes. [228]

Q. Now, in the first part of 1917, did you visit the house of George De La Nux when Mrs. Houghtailing was staying there?      A. Yes.

Q. Did you ask her—did you have any conversation with her about her staying down there?

A. Yes.

Q. Tell us what you remember of that conversation.

A. When I met her I asked her, "How is it that you are staying here with your big boy?" He (she) said, "I am—my stopping here is very good; my health is good, at least my body is fine." I asked

(Testimony of Jesse H. Makaanai.)

her about some disagreement between George and his brothers.

Q. Yes, go on?

A. She says, "Because they are ignorant the same as I am," she says, "They ain't like his brother; I like this one better, the elder brother."

The COURT.—What do you mean by (speaking in Hawaiian) "Hupo."

WITNESS.—(Through interpreter.) She didn't define to me what she meant by the word.

The COURT.—Mr. Interpreter, do you define that as ignorant? It is not necessarily ignorant,—isn't there some other meaning?

INTERPRETER.—"Hupo" would be stupid, not educated, not smart.

Mr. ANDREWS.—Would it be foolish?

INTERPRETER.—*I* could be made foolish, no good; it all depends on how it is applied.

Mr. ANDREWS.—At the time that she had this conversation with you was she intoxicated or was she sober? A. She was not.

Q. She was not what?

A. Was not drunk. [229]

Q. Perfectly sober?

A. When I was talking with her at that time she hadn't had any drink.

Q. And did she seem to understand what she was talking about? A. Yes.

That is all.

That is all.

Mr. ANDREWS.—I will have to recall Mrs. Houghtailing with the permission of the Court.

**Testimony of Mrs. Rebecca Houghtailing, for Respondents (Recalled).**

Mrs. REBECCA HOUGHTAILING recalled for further cross-examination by respondents.

By Mr. ANDREWS.—I would like to state, about my remembrance, is *is* that I went into it fully, the conversation she was supposed to have with De La Nux and Mrs. De La Nux after the visit of Breckons in which she told them she was foolish about this matter, and wanted George to have all the property.

The COURT.—I don't think so; she is recalled for further cross-examination.

Mr. ANDREWS.—Mrs. Houghtailing, you know a man by the name of Donald K. Hulapa?

A. No, I don't know that name.

The COURT.—Daniel?

Mr. ANDREWS.—Yes, he used to be a man working around in the abstract office, title searcher.

A. I don't remember. [230]

Q. Well, I can't bring him in because he is paralyzed, have to have him carried in—some trouble with his feet.

The COURT.—Where does he live, Mr. George De La Nux?

Mr. DE LA NUX.—Halawa, Aiea.

Mr. ANDREWS.—You remember when Charley De La Nux was working at the Waimea pump in 1908 or 1909, that you met a man by the name of Hulapa, or any other man at Charles' house, and Daniel's



(Testimony of Mrs. Rebecca Houghtailing.)

wife, and you and he were there sitting on the verandah and he asked you if you were still living in Honolulu and had your property there, and you said that all your land belonged to your grandchildren, and he asked you, "How is that?" and you said, "Well, I don't like my two boys because they are two drunks, but I like George. I wanted to give the property to George, so he didn't like it, so I gave it to his children"—any conversation like that take place?   A. No.

Q. With anybody?

A. No; I ain't going to talk about that with anybody, talk about this thing with everybody; it is nothing but this property, nothing but this property all the time—the idea!

Q. I understand that it never occurred?

A. The idea!

Q. I have mentioned Daniel Hulapa or any other man whose named you don't remember now, at Charles' place at Halawa?

Mr. LARNACH.—I understand it was at George's place.

Mr. ANDREWS.—At George's place,—you were down there?

The COURT.—Did you have a talk like that at George's place?   A. I have, your Honor.

Q. And his wife,—what is the wife of Hulapa, her name?

Mr. ANDREWS.—I don't know, your Honor.  
[231]

WITNESS.—I didn't get acquainted with the

(Testimony of Mrs. Rebecca Houghtailing.)

woman until I was there. Oh, my!

Mr. ANDREWS.—Did you know Jesse K. Kaae,—Mrs. Kaae? A. Yes.

Q. Now, Mrs. Haaeho, she is some cousin of yours, isn't she? A. Not that I know of.

Q. Don't you call her cousin?

A. She calls me cousin; I don't know anything about her relationship; she seems to know all.

Q. Now, do you remember in Kalihi in 1905 she coming to your house one afternoon and asked you whether it was true you wanted to see her, you saying you wanted her to live with you,—she afterward lived with you some time after that? A. Yes.

Q. That is correct, isn't it? A. Yes.

Q. She and her husband went to live with you?

A. Yes.

Q. After that in your house in Kalihi during 1905 one time about July of that year you and her husband got talking about a deed to George's children having all your property and her husband said to you, "If you are going to fight against that deed I am going to be a witness for George, your son." Any such conversation take place?

A. Not that I remember.

Q. And that the next day that Jesse spoke to you about it, and asked you what her husband meant by saying he would be a witness for George, and that you said, went along a conversation about the three boys you had, that you had deeded your property—deeded it to his children, all your property, that you thought her husband had forgotten all about it? [232]

(Testimony of Mrs. Rebecca Houghtailing.)

A. No, let me answer your question, please. It seems to me all my affairs, these people come to see me, are all interested in my affairs, asking, "What about the children, what about the property?" I think when they come to my house they come to enjoy themselves and drink, but not to come and ask questions, but it seems now every time is the question about my children, which they don't care about; now they didn't seem to care about my children, now they seem to care about the interest of each of us, they seem to care, but then they don't care; they only come to drink with me.

Q. Do you mean to say that never occurred what I have just asked you?     A. No; I don't remember.

Q. And then—did you have a further conversation with him, with her—and you said, "Now, your husband remembers about it I guess I will leave it alone; I will not do anything further."

A. I said to her husband?

Q. Did you say to Jesse, "As your husband remembers about this matter I think I will drop it?"

A. No.

Q. And then she asked you about your other two boys, that you had made a deed to George's other two sons, and you said that you have nothing to do in regard to the other two boys, anything like that said?

A. No; just as I told you a little while ago.—no. Mr. Andrews.

Q. She said to you, "Aren't you going to give anything to your other boys?" And you said, "No, because they are mean and nasty; you have heard them

(Testimony of Mrs. Rebecca Houghtailing.)

curse me," and you repeated the words the other two boys used towards you—anything [233] like that said? A. No.

Q. Then, do you remember her coming to you, after the paper having come out with an account of your being put under the spendthrift trust, she coming to you the next morning? A. No.

Q. She commencing to cry when she saw you, and then you asked her why she was crying; did it happen? A. I do not know.

Q. Did it happen? A. I do not know.

Q. And she said, "I am crying because of what I saw in the paper, that you had been put under a guardianship for a spendthrift, drunkard," and you said, "No, I know what I am doing," and she said, "What are you doing?" and you said to her, "Mr. Steere put me up to that so I could break the deed to George's two boys." A. No, sir.

Q. "Why don't you let them go, rather than insult your family name, putting yourself under a trust like that," and you said, "Oh, it is nothing, because when the case is all over it is going to be ended"; anything like that said? A. No.

Q. And then Jesse said to you, "No. it will remain in the records of the court all the time," and you said, "No, we can have it wiped out when"—or words to that effect? A. No.

Q. Nothing like that happened? A. No.

Q. Now, do you remember when you were—went down to George's house to live, after the visit of Breckons, the early part of [234] 1917, one even-

(Testimony of Mrs. Rebecca Houghtailing.)

ing you calling, saying, "Mrs. Houghtailing, I want to speak to your husband—Mrs. De La Nux, I want to speak to your husband," and taking her and George into the parlor with you?

A. That I don't remember.

Q. You don't remember that?

A. No, but I remember going down there and staying there.

Q. When you got into the parlor there you had a conversation with her about—with George, about how he had been foolish, how you was sorry of what you had done, but that you asked George to promise you to remember Henry, give Henry some money.

A. That is very silly.

Q. That isn't so, is it?      A. No.

Q. And George said, "What is the use of giving Henry any money, because he would drink it up? I want it fixed," and you said you would do whatever he said, and he said, "I want it fixed so it will be settled on Henry's children."

A. I don't remember; I don't think he said so.

Q. You said you left it entirely to him to do whatever he thought was right, but you wanted him to remember his brother Henry, or words to that effect?

A. No.

That is all.

Cross-examination.

MR. LARNACH.—I will ask you this: Did you have a conversation anything like that at that time with George and his wife and you?

A. About what? [235]

(Testimony of Mrs. Rebecca Houghtailing.)

Q. Anything that you have said that was said or anything like that, about your knowing that it was all right about the deed, you wanted to straighten it out so that George got everything, but you wanted him to promise to make some arrangement for Henry; did you say anything like that?

A. No; the only conversation we had was the one with Mr. Breckons.

Q. No; when you were living down with him?

A. No; why should I say anything like that when he already had it in his hands?

That is all.

Mr. LARNACH.—(Further cross-examination.) Now, while you were visiting your son George and on the occasions that Mr. Andrews has drawn your attention to, did you indulge in any liquor down at Aiea? A. Now and then.

Q. Who supplied you with that liquor?

A. My son George.

Q. (Mr. ANDREWS.) I object to that; that is not proper.

Objection overruled.

That is all.

### **Testimony of Mrs. Kaae Haaeho, for Respondents.**

Direct examination of Mrs. KAAE HAAEHO, called for respondents, sworn, testified as follows:

By Mr. ANDREWS.—Now, we will take up her examination where she left off. If I remember correctly, in your other examination you said you had lived with Mrs. Houghtailing, you and your [236] husband lived with her in 1905? A. Yes, sir.

(Testimony of Mrs. Kaae Haaeho.)

Q. Do you remember a conversation which she and your *husband her* in or about July, 1905?

A. Yes, sir.

Q. About her property?      A. Yes, sir.

Q. Now, will you tell the Court just what you heard of that conversation?

A. It was on the verandah of her home; we were sitting near together, near by, as far as here where I am sitting now to there (indicating the attorney who was standing by the witness-stand); they were talking about some deed, she is going to put it in court, she said, "I am going to have my petition in court to break that deed"; then he said "What deed?" that is, my husband said that, and she stys, "Oh, I have done gave it to my son's children." And she says, "Go ahead; I will get evidence for the boy because I didn't—

The COURT.—Your husband said that?

WITNESS.—Yes, in a sassy way to him, "Certainly," my husband says, "Certainly."

Q. Was anything else said?

A. "Then you go out and get evidence for George," and he said, "Yes, for the truth, I am going to come on the stand for that boy," so that conversation was dropped right then and there. Finally, the next day my husband went down to Puuloa to search for another job; we were all alone at the house; we were around there talking over things, and I brought the conversation to her, and I said, "What about?" and she got up, "About this deed to your 'Mopunas,'" "My big son." "Why, have you got another son?"

(Testimony of Mrs. Kaae Haaeho.)

[237] "Yes, don't you know it? I have another keiki?" "No, I only know two; you always introduced me to the other two; you never told me you had another one." "Oh, yes, I have three, that is our keiki 'Haku'" (speaking Hawaiian), called "Lord of the family," so she started to tell me all about this, she had deeded to George's two sons all what she had, and in my question I says, "What about the other two keihis, Henry and Charley?" "Oh," she said, "why, oh, you know what they are; they are mean and nasty to me; George is the best keiki; he treats me as a mother, and the other two know that; they don't treat me as a mother, abuse me as if I was nobody to them." "But I think you have done wrong; you ought to give something to the other two boys." "Oh, plenty of time for that; I can fix that up some day or other; you never need mind meddling in my business." I said, "Of course not," and then the conversation was pau; she didn't bring it up until my husband died, then I saw an article in the papers that Steere was put under guardianship as a spendthrift and as drunkard, so I went up early the next morning to her house I saw her on the verandah; she greeted me, and I cried, and she said, "What are you crying for?" I said, "Oh, I am—I feel hurt at heart." She says, "For what?" "The idea that you should go and allow yourself to be put on the spendthrift and a drunkard, a good family like yourself and mine be known in public that you are put under a spendthrift and drunkard." And she said, "That is nothing." I says, "Nothing?" "Yes,



(Testimony of Mrs. Kaae Haaeho.)

nothing." I says, "How did you come to do this?" "Oh, it is merely Mr. Steere put me up to this to break the deed to get back [238] the 'property again." I says, "It is a very poor way," and she says, "So that I could get something for Henry and Charley." I says, "There is lots of allowance you could make for the other two, but it is a disgrace to go into court, and put yourself as a spendthrift, when I never knew Henry—put yourself as a spendthrift and a drunkard, lose your own senses; you always a lady in your own house, a house that is always clean and tidy; a drunkard lives in shacks, that is what I call a drunkard," because I am talking to her; then she says, "Oh, don't be like that; people don't believe that in court." "That will live in the court records from generation to generation." "Oh, no, it will be all over when the case is over." I said, "Nothing at all; no, whoever advised you advised you wrong." She says, "No"; and I said, "It will be there from generation to generation." "Oh, that we will fix up by-and-by," and I said, "All right."

Q. Now, Mrs. Haaeho, when you—in the first conversation you speak to her, after she had this conversation with your husband, did you ask her anything about who suggested to her of deeding her property to George's boys? A. Oh, yes.

Q. What did she say to that?

A. Her own free will.

Q. Now, are you related to Mrs. Houghtailing?

A. Yes, I am.

Q. In what way?

(Testimony of Mrs. Kaae Haaeho.)

A. My grandmother and grandfather are first cousins.

Q. You have known her all your life?

A. I have known her when she was a girl; I know her mother, [239] know her father.

That is all.

Cross-examination.

Mr. LARNACH.—Now, you stated that in 1915 you asked Mrs. Rebecca Houghtailing whether she had any other sons besides George; that is true, is it not?

The COURT.—No, besides these two (indicating Henry and Charles).

Mr. LARNACH.—You were acquainted with the other two sons, were you not? A. Yes, sir.

Q. And you had visited in the home there—Henry's? A. Yes.

Q. You stayed there for any length of time?

A. Only of late years, after my husband's death, long before my husband's death, I stayed down at Kauai; I was at Henry's home.

Q. And while you were there Henry fed you?

A. Yes, had to please them, had to please me. I was their guest; I ate at their place with them.

Q. He was apparently feeding your family—feed his family at that time, Henry was?

A. He was.

Q. Did you have any row with Mrs. Rebecca Houghtailing down there at Henry's house while you were staying there in 1915? A. Not that I know.

Q. You don't remember? A. No. [240]

(Testimony of Mrs. Kaae Haaeho.)

Q. You don't remember having to be put out of Henry's house at Moanalua while you were in a drunken condition because of a fight with Mrs. Houghtailing?     A. Oh, no, no.

Q. You don't remember, or do you mean to say that you were not put out?

A. I remember I wasn't put out. I was an honorable guest of theirs, Henry and my cousin, Mrs. Houghtailing.

Q. You were a drinking woman?     A. I do drink.

Q. To excess?     A. Not to excess.

Q. While you were down at Henry's, you didn't drink to excess?

A. We all had a glass of drink; I don't deny that.

Q. Very often?

A. When we wanted to take something.

Q. Did you want it more than once every twenty minutes, or every hour?

A. Not every twenty minutes.

Q. How often was it, Mrs. Haaeho?

A. Three times a day.

Q. Did you keep to that regularly, just three times a day?

A. Not every day; when we got it we drink it.

Q. Was Mrs. Houghtailing there with you?

A. Certainly; she invited me to come down with her.

Q. She used to take it pretty regularly three times a day?     A. Just what the ladies drink.

Q. How long did this keep up, what the ladies drink?

(Testimony of Mrs. Kaae Haaeho.)

A. Oh, well, I guess about three days about, every day, not to excess. [241]

Q. You just kept it up for three days at a time?

A. No, not two or three days at a time; I didn't say two or three days at a time.

Q. Two days, maybe?     A. A day.

Q. Then you quit for awhile?

A. Not a whole day; I didn't say a whole day.

Q. Then it isn't true that Henry had to chuck you out of the house down at Moanalua in 1915 when you were a honorable guest because you were fighting with Mrs. Houghtailing, his mother?

A. I wasn't—I did—never had any fighting with his mother in his house, never did.

Q. And you were not drunk down there at any time on the occasion I have referred to.

A. Not that I know of.

Q. Had no quarrel with Mrs. Houghtailing.

A. No.

Q. Mrs. Houghtailing had a home on Kalihi road, or Kamehameha IV road, her homestead—you know where that is?     A. Yes, certainly.

Q. You have stayed there as an honorable guest, as you have expressed it?     A. Yes.

Q. Your husband stayed there?     A. Certainly.

Q. For what length of time?

A. Six months, no—yes, six months.

Q. At that time—during that time were you a prohibitionist, or did you take a little drink as ladies do sometimes, as you expressed it? [242]

A. She has.

(Testimony of Mrs. Kaae Haaeho.)

Q. I mean you?

A. I had a little drink; I always took a little drink.

Q. Do you remember that you ever missed part in taking a drink—

Mr. ANDREWS.—I object to that as irrelevant, incompetent and immaterial— A. No—

Objection sustained.

Mr. LARNACH.—How about Mrs. Houghtailing—didn't she drink quite regularly while she was at home, while guests were with her in her house?

A. Not every day, I say.

The COURT.—Didn't get drunk while you were living there?

A. She wasn't drunk; she was a little jolly, that is all. That is what I called getting drunk when you go to sleep.

Q. You don't consider a person drunk unless they are sleeping in the gutter—asleep? A. Yes.

Q. Anything less than that is not a drunk?

A. Yes.

The COURT.—What did she say when she got jolly?

A. She remembered everything.

Q. What would she say or do?

A. She is always in her right senses.

Q. What would she say—anything at all out of the way? A. No, not in my presence.

Q. Was she affectionate or fighting?

A. Not fighting.

Q. Was she affectionate when she got drunk?

A. Very nice ladylike. [243]

(Testimony of Mrs. Kaae Haaeho.)

Q. Never swore, anything like that?

A. Not when I was present.

Q. How long had you been in the house with Mrs. Houghtailing when this conversation took place—this conversation in 1917, as I remember it—1915?

A. Six months.

Q. Six months before the conversation took place?

A. I was there before the conversation took place.

Q. How long before?     A. Three months.

Q. Three months before the conversation took place?     A. Yes.

Q. You are sure of that?

A. I am sure of that.

That is all.

The COURT.—You asked Mrs. Houghtailing why she didn't give some of her property over to Henry and Charley?

A. Yes.

Q. And she said they were "no good," or something to that effect?     A. Yes.

Q. She told you that she gave the property over to George or George's children?

A. George's children.

Q. Not to George?

A. George wouldn't accept it.

Q. While you were living there was Bathsheba *was* living there too?

A. No, she was up at Manuole.

Q. All the time that you were there?

A. Yes, all the time that I was there.

Q. Did you know Bathsheba? [244]

(Testimony of Mrs. Kaae Haaeho.)

A. I knew her when she was a little girl.

A. How old?

A. I think about five; she was sitting by her when she was making little dresses for her.

Q. The grandmother?

A. Yes, the grandmother.

Q. The grandmother brought her up?      A. Yes.

Q. Was the grandmother fond of her?

A. Very fond of her.

Q. Did you ask the grandmother at that time why she didn't give some property to Bathsheba?

A. No, only about the two boys, your Honor.

Q. You knew that the property had been given to the grandchildren of the boys—      A. Yes.

Q. The children of George, I mean?

A. Yes, I knew.

Q. You knew at the time that the property had been given to George's children?      A. Yes.

Q. You didn't remind her of Bathsheba?

A. Aole, no, your Honor.

Q. Simply overlooked, overlooked her?

A. No, I didn't mean to overlook her. I think I remembered about the other two boys, she told me that George wouldn't accept the property so she handed it down to George's children.

Q. Well, did you at that time feel surprised that she gave the property to the two grandchildren when you knew she was very fond of Bathsheba? [245]

A. I didn't have that feeling at the time to tell you the truth, your Honor.

Q. How do you feel about it now?

(Testimony of Mrs. Kaae Haaeho.)

A. I am not interested with their property; it is not mine; she could do with it what she pleases; I do what I please with my own property; nobody else's business but my own.

Mr. LARNACH.—Do you remember causing the arrest of Mrs. Houghtailing?

A. That is not in this question, if you please, sir. That is not contained with this case.

Q. That is—his Honor will decide that.

The COURT.—Answer the question.

A. Yes, I did.

Q. How long ago was that?

A. That was in 1915.

Q. While you were an honorable guest of Mrs. Houghtailing? A. Yes, sir.

Q. After one of these big ladylike drunken bouts, was it? A. No.

Q. Will you—you caused her arrest because you had some feeling against her, did you?

A. I have been a guest of them down there three months before that time she took me in the house. Now, I went to a certain place and found everything, and I arrest her.

Q. And you did cause her arrest, you remember that? A. (No answer.)

Mr. ANDREWS.—She has answered that.

Mr. ANDREWS.—This arrest was on account of your husband and her being intimate?

The COURT.—Was that before or after that conversation?

WITNESS.—That conversation was before that;



(Testimony of Mrs. Kaae Haaeho.)

the arrest was made [246] after.

The COURT.—On account of that you had some ill-feeling towards her?

A. I never had any ill-feeling against her until when I—when the fact, when I found out all the facts, I had them arrested.

Q. After that you felt sore?

A. Sore? She asked my forgiveness and I forgive her; then we made up friends again and we both went down to Kauai with my husband and we came back together; she wanted me to live with her and I declined and went to my own brother's home.

That is all.

Mr. ANDREWS.—When did your husband die?

A. Waimea, Kauai.

Q. When? A. November first, 1915.

That is all.

Mr. LARNACH.—With the Court's permission, I would like to ask a question.

Q. While you were staying with Mrs. Houghtailing in 1915, you stated you had a conversation with her, which you have testified to, and in which you stated to Mrs. Houghtailing—

A. What conversation, if you please?

Q. I will tell you; regarding the fact that up to that time you were not aware of the existence of the other two sons? A. Yes, sir.

Q. Now, which sons did you refer to?

A. Charley and Henry. [247]

**Testimony of Daniel Holapu, for Respondents.**

Direct examination of DANIEL HOLAPU, called for respondents, sworn, testified as follows:

By Mr. ANDREWS.—Where are you living?

A. Halawa.

Q. Living there sometimes? A. Yes.

Q. Do you know Mrs. Houghtailing here?

A. Yes.

Q. How long have you known her?

A. I believe more than twenty years.

Q. Now, you know George De La Nux?

A. Yes.

Q. You know where he was living in 1908 and 1909? A. Yes.

Q. At Halawa? A. Yes.

Q. Where was he working—what was he working at? A. He was in the pump.

Q. Did you see in either of those years, 1908 or 1909, did you see Mrs. Houghtailing down at George's house? A. Yes, sir.

Q. Who was present? A. My wife.

Q. You and who else?

A. Me and my wife, and Mrs. Houghtailing.

Q. Where were you sitting?

A. On the veranda of George's house at Halawa.

Q. Was there any conversation at that time about anything connected with her property? A. Yes.

Q. Now, will you tell us, please, what you remember of that conversation, how it started, what was said?

A. We didn't see for a long time.

(Testimony of Daniel Holapu.)

Q. You hadn't seen her for a long time? [248]

A. Yes, it has been so long since we meet together, and I asked her, how she living, she says, "All right," and I asked if she lived at Kalihī, and she said, "Yes," she told me that property belonged to George's children. I said, "How is that?" "Oh, I give all my properties to them; I give to George but George don't like it, so I give to his children, all my property, because I don't like my other two boys; they was drunks."

Q. How long since you have seen George up till yesterday? A. About seven years.

Q. And you mentioned this conversation to the gentleman behind you the day before yesterday?

A. Yes.

That is all.

Mr. ANDREWS.—Oh, I will ask, was Mrs. Houghtailing sober when she had this conversation with you in 1908 or 9. A. No, sir.

Q. Was she sober—do you know what I mean?

A. Yes, a little drinking, but not drunk.

Q. Talk as if she knew what she was talking about?

A. Yes.

That is all.

Cross-examination.

By Mr. WITHINGTON.—I understand you that this conversation took place in 1908 or 1909?

A. Yes.

Q. Quite sure of that?

A. Yes, what I believe.

Q. How do you fix it in 1908 or 9?

(Testimony of Daniel Holapu.)

A. See, I remember so many years, I remember how, you know, [249] at that time, that is, the time when I—when Mrs. Houghtailing talked to me down at George's house, because I remember one of George's brothers worked at Waimalo pump; that is how I remember.

Q. So you fixed the time when one of George's brothers was working at the Waimalo pump?

A. Yes.

Q. You say your wife and Mrs. Houghtailing were there present; who else was present at that time?

A. Yes.

Q. Nobody else?      A. Nobody else.

Q. And the place was in George's house or on the lanai—which was it?      A. Yes.

Q. Which was it, on the lanai?

A. On the lanai.

Q. The next time you spoke of it was to Mr. Makanai, of this conversation?

A. You see the night before last I called him to come up to my house—to my husband.

Q. What is that?

A. I called Makanai to come up to my house the night before last and I asked Makanai if I didn't mistake—I saw Makanai somewhere around in town the day before, and he said this, he told me, that he was coming, that he come up for this matter, and I said, "What is the matter?" because I don't know nothing about it, that is the first time I heard of the case, and he says about a deed of Mrs. Houghtailing to George's children. Well, Makanai don't explain

(Testimony of Daniel Holapu.)

to me nothing, but I told Makaanai [250] what I tell now in the presence of the Court.

Q. Now, up to that time you hadn't spoken of it to anybody, up to night before last?

A. You see—

Q. Don't you understand, up to 1908—up to night before last you hadn't spoken of this conversation to anybody? A. Yes.

Q. That is correct? A. Yes.

Q. You—the first you knew of any suit was the day before yesterday?

A. From Makaanai, that is the first I knew.

Q. You have been a witness frequently in court, Mr. Holapu, many times? A. Yes.

Q. A great many times? A. Yes.

Q. Hasn't that been your business, too, wasn't it for many years, to get evidence in lawsuits—didn't you follow that business of getting evidence for lawsuits? A. Yes.

Q. Did I understand you to say at this time in 1908 Mrs. Houghtailing was a little drunk?

A. Yes, sir.

Q. Who supplied that, who furnished it—did George furnish it? A. I don't know who did.

Q. Was it furnished there at the time at the house?

A. I don't know.

Q. Did you bring any there? A. No. [251]

Q. Then it was furnished at the house?

A. What is it?

Q. Did—George and his wife furnished it, did they? A. I don't know who furnished it.

(Testimony of Daniel Holapu.)

Q. I am trying to find out where you got this liquor that you saw you had there, a little?

A. No, I don't know.

Mr. ANDREWS.—He didn't have any; he thought she was under the influence.

Mr. WITHINGTON.—You yourself didn't take any drink at that time?

A. No.

Q. You thought she was under the influence of liquor? A. By the smell of it.

That is all.

That is all.

**Testimony of Mrs. Lahapa De La Nux, for Respondents.**

Mrs. LAHAPA DE LA NUX, called for respondents, sworn, testified as follows:

Direct Examination.

By Mr. ANDREWS.—What is your name?

A. Mrs. George De La Nux.

Q. Are you the mother of George and Daniel De La Nux? A. Yes.

Q. And Daniel is still living and George is now dead; is that right? A. Yes.

Q. When did George die? A. A year back.

Q. Do you know Mrs. Rebecca Houghtailing?

A. Yes. [252]

Q. When did you first see Rebecca Houghtailing?

A. In my own home, at Kohala, Hawaii.

Q. What was George doing then in Hawaii?

A. He was sugar boiler.

Q. What plantation? A. Paauhau.

(Testimony of Mrs. Lahapa De La Nux.)

Q. Do you remember the year that she first came to call on you at your home—remember what year it was?

A. It is too far back; I can't remember.

Q. Well, what happened when she came up there?

A. When we—when she came up there we got married.

Q. Did she have any conversation with George or anything about George's future?     A. Yes.

Q. Well, what was said in your presence?

A. She said before she came back to Honolulu, she asked George to allow him to come down with her to live in Honolulu.

Q. Well, did she want George to come to Honolulu,—was there anything said about that?

A. George refused at that time because he had to work.

Q. After that what happened?

A. (Through interpreter.) She (witness) says George repeatedly—she told George repeatedly to come to—to come with them, never mind about work, "Leave the work, I will take care of you."

Q. Now, then, did she go away, back to Honolulu?

A. Yes.

Q. Well, then, all right; you folks stayed there up in Hawaii?     A. Oh, a year after that. [253]

Q. You came down to Honolulu, you and George?

A. Yes.

Q. Now, where did you go to live?

A. With her.

Q. How long did you stay—did you and George

(Testimony of Mrs. Lahapa De La Nux.)

stay? A. It is six or seven weeks.

Q. Where did you go then to live?

A. I went down to Aiea.

Q. And did George get a position there?

A. Yes.

Q. And after that, since that time, where have you lived? A. Aiea.

Q. You lived at Aiea—did you live at Halawa, and back again to Aiea, is that right? A. Yes.

Q. Did you live at Waimalo, too?

A. Yes, we stopped at Aiea, then we went to Waimalo, and from there, Waimalo, to Halawa, and from Halawa went back to Aiea.

Q. Now, then, did Mrs. Houghtailing ever come to see you while you were living at these places you have mentioned? A. Yes.

Q. Now, where was your first child born?

A. Aiea.

Q. That was George, was it? A. Yes.

Q. Now, after that, after the birth of George, was there any talk between Mrs. Houghtailing and your husband about property or anything like that, if what, tell us. A. Yes.

Q. Tell us what you remember of this conversation, where they were, and what happened. [254]

A. She came down and said to George, "I want to deed over all this property to you," and George said, he didn't want it that way (Mr. Withington interrupts).

(Question repeated.)

A. It was at Aiea.



(Testimony of Mrs. Lahapa De La Nux.)

Mr. ANDREWS.—All right, now tell us about, you were telling us some of it. How old—

INTERPRETER.—She didn't give me the time, I asked her, but she gave me the place and not the date.

WITNESS.—By the year?

Mr. ANDREWS.—How old is your first child?

A. She said first she wanted to give this property to George, and George said he didn't want to have it put on to him because he has got some younger brothers.

Q. Go on.

A. Says, "I didn't look at that. I want to put it all on you."

Q. Now, then, what did George say to that, if anything?

A. He refused up to the time that Charles was born—George.

Q. The name of the child is Daniel.

A. No, it is the first child. I don't know how long it was after that, but I was carrying the second child.

Q. Now, let us get that, Mrs. De La Nux, for a minute, how long after the, your first child—withdraw that—how long after you first went to Aiea did Mrs. Houghtailing have this first talk with your husband—can you give us any idea, a few months before George was born, or after, or when, the first time?

A. Before George was born.

Q. Then did she speak of it again?

A. Yes. [255]

(Testimony of Mrs. Lahapa De La Nux.)

Q. Now, I understand—how many times did she talk of it before the second child was born?

A. There are quite a number of times, I can't remember how many.

Q. Now, then, after—where was the second child born, where were you living then? A. Waimalo.

Q. Do you remember any conversation with Mrs. Houghtailing after the second child was born, about this matter? A. Yes.

Q. Well, what do you remember was said? Tell us about that.

A. She said that she was feeling well enough not to be delaying about this matter, she wanted it fixed up. I thought at that time the first time that George consented but not to put it, put the property on me, but put the property on my children if you want to.

Q. Now, after that did you ever—did you do anything about it, is there any time that you did anything about it—withdraw the question. What happened after that?

A. Yes, they fixed it up, then she said to George, my husband, to go and make it right, make the instrument.

Q. Did you and George go anywhere—if so where?

A. When—yes, when the deed was made in front of Correa I was there, too.

Q. How did you get there?

A. In the presence of Correa.

Q. How did you get there?

A. Mrs. Houghtailing told the two of us to go there.

(Testimony of Mrs. Lahapa De La Nux.)

Q. How did you go?

A. We went on the train, came on the train to Honolulu.

Q. Who did? [256]

A. Myself, Mrs. Houghtailing and my husband.

Q. So, where did you go?

A. We went into the office of this lawyer.

Q. What happened in there, to the best of your remembrance?

A. I sat down and then I understood for the first time about this deed; he took it out and read it to Mrs. Houghtailing.

Q. After he read the deed what happened?

A. After he read the deed he said, "How is that—all right?" and Mrs. Houghtailing said, "All right."

Q. And Mrs. Houghtailing said—

A. She consented.

Q. Was the deed made when you got to this lawyer's office?     A. Yes.

Q. After she said it was all right what then?

A. Then Mr. Correa told Mrs. Houghtailing and George to go there to where the notary was.

Q. Did you go over there?

A. No, only those two went; I went another place.

Q. Now, after that did you use to visit Mrs. Houghtailing's house in Kalihi?

A. Yes, sometimes.

Q. Your children visit there?

A. When I go there my children would come with me.

(Testimony of Mrs. Lahapa De La Nux.)

Q. Did she use to visit you down at Aiea?

A. Yes.

Q. Now, she has said that some years after this you accused her of calling your children "niggers" and there was a fight and you threw stones—that you threw stones?

A. I don't know anything about that.

Q. Did that ever happen? [257]

A. No, that is the first I ever heard of it.

Q. Now, do you remember the time that Mr. Larnach and Mr. Breckons and Mrs. Houghtailing came down to your house at Aiea about 1916, before this suit was brought? A. Yes.

Q. Now, will you please tell us what you remember of that?

A. It is my remembrance at that time that my son George was sick; I was in the room with my sick child, when the housemaid came and told me there was somebody outside.

Q. Who was there?

A. Mary Ann Lee, Mr. Breckons, Mr. Larnach and Mrs. Houghtailing and Mrs. Charles De La Nux.

Q. They were there in your house? A. Yes.

Q. Now, there has been testimony by Mrs. Houghtailing, or I think Mrs. Charles De La Nux, that you brought out some gin for them to drink, is that true?

A. No.

Q. Now, what happened after you came in the room and saw them there?

A. When I came into the room Mrs. Houghtailing was crying. I went over and sat down with her and we both cried over the child's health.

(Testimony of Mrs. Lahapa De La Nux.)

Q. Go ahead and tell what happened after that.

A. Then Mrs. Houghtailing asked, "Where is your husband?" I said, "He is at work."

Q. All right; you sent for George at their request, didn't you?     A. Yes.

Q. Now, then—

A. So they said for me to telephone to my husband as they wanted to see him. [258]

Q. All right, you did, and he came?

A. Yes.

Q. Now, after he came, did you stay and listen to the conversation?     A. Yes.

Q. What did you hear? Tell us.

Mr. WITHINGTON.—That is, she spoke English so that she understood it. I don't want to object to her testimony so far as she is able, but there is no evidence that she understood it.

Mr. ANDREWS.—You understand English?

A. Some.

Q. And you speak some?

A. Oh, a little bit. I couldn't understand any difficult passage.

Mr. ANDREWS.—What did you hear said?

A. Breckons then said to George, "We have come here under the order of your mother to change the deed that was made before."

Q. Yes, what else was said?

A. She says, "On account, all that I wanted, your mother wanted to give under this deed was the home at Kalihi, the rest of my property was to be divided between George, Henry and Charley."

(Testimony of Mrs. Lahapa De La Nux.)

Q. Who said this? A. Breckons.

Q. Go ahead; what happened after that?

A. Then George said, "The instrument ain't made that way."

Q. The COURT.—Wasn't made that way?

A. Yes.

Mr. ANDREWS.—What happened after that? Go ahead. [259]

A. He says, "That isn't how the instrument was made; the instrument was made, 'all the property belonging to my mother was deeded to my two children.'"

Q. Go on.

A. And then he asked his mother, "Isn't that so, Mother?" And she said, "Yes."

Q. What happened after that?

A. And he said, "Ain't that so, you put all this property on to me and my children on account of my brothers of being bad to you, spoke bad about you?"

Q. Go on; what happened after George asked her that?

A. Then mother commenced to cry and said she didn't know.

Q. What happened after that?

A. Then at that time my sick child called to me to come into the room and I went into the sick child.

Q. Did you hear any more?

A. Not at that date.

Q. Not at that meeting?

A. Not at that meeting.

Q. Now, this question of this bringing the gin; will

(Testimony of Mrs. Lahapa De La Nux.)

you tell us whether there was any gin there, and if so what was done about it?

A. Yes, when I came in I saw the bottle of gin sitting on the table.

Q. You didn't bring it in?      A. No.

Q. Did you see anybody drink there that day?

A. Yes.

Q. Who?

A. Mr. Breckons, Mrs. Houghtailing, my mother-in-law, Mary Ann Richards; that is all, only those.

Q. How many drinks did Breckons take, do you know? [260]

A. I don't know how much, but what I saw was two glasses.

Q. Did you see your mother-in-law take any there?

A. Yes, a little bit.

Q. How many times?

A. I think it was only one time, but I am not sure.

Q. How about Mary Ann Richards—did you see her take any?      A. Yes.

Q. How many did she take?

A. I don't know—once or twice; I don't know.

Q. Now, after that conversation did Mrs. Houghtailing come down to your house to live?

A. Two weeks after this meeting she came in.

Q. And was anything said by her when she came down to your house to live at that time?      A. Yes.

Q. What was said, if you remember?

A. "I have come down here to live with you on account of stopping that proceedings I have taken before. I know that I gave you and my grandchildren

(Testimony of Mrs. Lahapa De La Nux.)

this property and I want you to stop this business.”

Q. Was—how did—how long did she stay with you at that time?

A. I think about two or three months.

Q. Do you remember any talk she had with you and your husband—in the evening, that she was down there, about this property? A. Yes.

Q. Well, now, tell us about it, where it happened, where it was. A. In our parlor.

Q. Tell us what you remember of that. [261]

A. After—before supper—“after supper”—she says, “After supper I want you to have a talk with me,” and we consented; after supper then we went into the parlor, then started in to converse.

Q. What did she say?

A. “I want to ask your forgiveness to you for all the wrongs I have done,” she said to my husband, and George said to her, “Why, what was the reason of your doing this?” “This wasn’t of my own thoughts; it is from Mary Ann Richards, and Charley De La Nux’s wife, and the other two boys.”

Q. What else did she say?

A. “I want to have everything straighten up—no rows; I want this guardianship of Mr. Steers to be taken away, and for you to be my guardian.”

Q. Go on.

A. “Don’t you think,” he says, “that the other folks will say that I am putting you up to this?”

Q. George said that? A. Yes.

Q. Go on.

A. She said, “I don’t care for that; I don’t want



(Testimony of Mrs. Lahapa De La Nux.)

to look for that," she says, "I want this done quickly because I am sick."

Mr. WITHINGTON.—This was in 1916?

Mr. ANDREWS.—Yes, 1917, along about Christmas.

Q. I will ask her, this was the time that she said to you in the early part of 1917?

Mr. WITHINGTON.—I object to that. I want to ascertain when this conversation was.

Mr. ANDREWS.—Well, when was this conversation in relation to her visit with you—was it during the time she stayed [262] two months, two or three months?

A. Yes, that is the time she was sick.

Q. Now, then, you were in the middle of it, you told us about some of it; tell us something else that was said by her about George being her guardian.

A. She says, "I am sick; I have come down here; I have nobody to take care of me."

Q. She said something about wanting George to be her guardian; did she say he was going to fix that up for her—who was to arrange that part of it?

A. The son said, "We will go to"—mother said, "We will go to Judge Whitney."

Q. All right; was anything said at that time about Henry, about George's brother Henry?

A. She wanted to deed all the property over to George and his children and his wife on account she had some trouble with Charley's wife, because she didn't want Charles' wife, she was angry.

Q. Now, the question was, was anything said about

(Testimony of Mrs. Lahapa De La Nux.)

Henry, that she wanted anything done for Henry or not?

A. That was one thing, "I will ask you after this thing is all settled up for you to remember your brother Henry."

Q. Who said that? A. Mrs. Houghtailing.

Q. Well, did George say anything to that?

A. Then George said, "If that is the way, in that case the best thing you can do is to give her that money."

Q. Give who?

A. To give Henry's children a thousand dollars, something like that; the reason George said this was on account of Henry was a drunkard, it would be better to leave the money to the grandchildren. [263]

Q. Did he tell her that, to Mrs. Houghtailing?

A. Yes, he said that to the mother.

Q. At the time that Mrs. Houghtailing had this conversation with your husband and yourself was she sober or drunk? A. She was in—sober.

Q. At any time during the time that she lived with you was she ever drunk?

A. No, every time she came and stopped with me she was drinking, but not drunk.

That is all.

The COURT.—The case will be continued until tomorrow morning at nine o'clock.

(Testimony of Mrs. Lahapa De La Nux.)

Friday, June 20, 1919, 9 o'clock A. M.

Mrs. GEORGE DE LA NUX (Continued)—Cross-examination.

Mr. WITHINGTON.—Mrs. De La Nux, I understood you to say that you didn't know anything about the "nigger" incident, the first you heard about it; is that right?     A. I don't understand.

Q. Well, I will ask you in a little different form; did you on direct examination say you didn't know anything about the "nigger" incident, the first you have ever heard about it?

Mr. ANDREWS.—Does she remember that she testified that she never heard of the incident of accusing Mrs. Houghtailing of calling her son a nigger?     A. No.

Mr. WITHINGTON.—She didn't testify so, or that is true?

A. No, I haven't; that she does not know. [264]

Q. Do you remember any row or disturbance at Mrs. Houghtailing's house between you and her about 1910 or 1911?     A. No.

Q. Do you mean to say that there wasn't any?

A. I don't know.

Q. What do you mean—you don't know, you don't remember any such a row, or you don't know whether there was or not?

A. I can't say that I was the one because I didn't know of any happening.

Q. Let me see whether I can refresh your recollection at all. Do you remember being there in 1910 or

(Testimony of Mrs. Lahapa De La Nux.)

1911 with your husband and drinking with Mrs. Houghtailing? A. No.

Q. Well, were you or were you not there at any time during those years, drinking with her, your husband being there at the same time?

A. No.

Q. Do you remember any occasion when there was any running around the yard, you and Mrs. Houghtailing, and picking up stones or sticks to throw?

A. I don't know anything about this, not a lady of that reputation doing that sort of things, that sort of work.

Q. Do you remember, leaving out any stones and any sticks, being, in 1910 or 1911, being out in the yard with Mrs. Houghtailing without any dress on, in your chemise?

A. I am not a lady used to that sort of thing.

Q. I am asking you whether you remember any such occasion—I don't know what sort of a lady you are. Tell me whether you remember any such occasion.

A. I don't understand anything about that.

Q. Do you mean to say you don't remember any such occasion? [265]

A. Never was done, not even to this day.

Q. You do not at that time at or about that time indulging in what you call "nuku-nuku" in the yard with Mrs. Houghtailing? A. No.

Q. You don't remember your husband taking on such an occasion, taking you back into the machine and when you arrived at your house at Aiea don't

(Testimony of Mrs. Lahapa De La Nux.)

remember then of still being boisterous?

A. From what place to, my husband coming to get me?

A. That is, taking you from Mrs. Houghtailing's house on Kamehameha IV road out to your house at Aiea? A. No.

Q. Do you know a Mrs. Manuel Moses?

A. I ain't acquainted with her.

Q. You don't remember—you say there was no such incident. Let me refresh your recollection a little further; you remember of her trying to fix your dress on that occasion? A. No.

Q. Or putting your dress on?

A. I don't know that.

Q. As far as you know you never did that, never did have any difference with Mrs. Houghtailing at any time, any row?

A. Of course there is sometimes a disagreement in the family, but she might have got excited, but I was never that way.

Q. Do you remember any such occasion in 1910 or 1911 when she got excited with you?

A. I can't remember anything about that.

Q. Or any other time? [266]

A. I don't remember anything about it.

Q. How many children have you?

A. Four; three living now.

Q. How many by the defendant, George De La Nux? A. Two.

Mr. WITHINGTON.—Coming now to the time when Mr. Breckons and Mr. Larnach was out there,

(Testimony of Mrs. Lahapa De La Nux.)

I wish you would relate again exactly what took place, what was said and what was done.

A. They came there—when they got there I was in the room with the sick child, and a servant came to me and said. “There is somebody in the house that wants to see you,” when I went into the parlor; they were sitting in the parlor, Mrs. Houghtailing, Mr. Larnach, Mr. Breckons, Mary Ann Lee De La Nux.

Q. What was said and done?

A. When I went in I went over to my mother-in-law; she was crying; we sat down and cried together. She then said, Mrs. Houghtailing, she wanted to see my husband, and I went and telephoned to my husband to come home; then my husband came there and sat together with us, and Mr. Breckons asked my husband, asked him regarding this property that is in dispute, he says, “Your mother says she didn’t give all this property to your children, but David only gave the property at Kalihi,” and George denied that.

Q. What did George say?

A. He says that wasn’t what was done; what was done was that all the property was given to me and my children—only given to the children.

Q. What next?

A. Then the lawyer said something, and then George asked, [267] “Mother, didn’t you give this property to me out of your gratitude?” and mother consented she did.

Q. What were the words of Mrs. Houghtailing?

A. She consented, she said, “Yes”; he asked the question and she consented.

(Testimony of Mrs. Lahapa De La Nux.)

Q. Do you mean to say her word was "Yes."

The COURT.—She said, "yes," not consented.

INTERPRETER.—Yes.

Mr. WITHINGTON.—What took place next?

A. He says, "Wasn't it the reason you gave over this property on account of my brothers doing wrong to you?" Then she said it was; she didn't remember that.

Q. What next?

A. Then my sick child called to me to come into the room and I went into the room with my child.

Q. You said in your direct examination, or I think—withdraw that question and put another. Did you hear any further conversation at all at this time at this interview?

A. They were talking in there but I couldn't understand what they were saying.

Q. So that this is a fair statement, is it, that after this you heard them talking but didn't hear anything which you now can remember?

A. Yes, I didn't understand what they were saying.

Q. Didn't hear anything said about the deed of trust? A. No.

Q. You said that at the same time you saw a black bottle of gin in the room; when did that first appear?

A. I didn't say black bottle.

Q. A bottle of gin, then? [268]

A. When I came out again then I saw that bottle of gin there.

Q. When did you come out?

A. After I got through looking after my child.

(Testimony of Mrs. Lahapa De La Nux.)

Q. How long did this *part* stay there after that?

A. I don't remember.

Q. Some time?

A. I don't remember; maybe long; I don't remember.

Q. But after you—the first you saw of the bottle of gin was after you came out of the child's room?

A. Yes.

Q. You hadn't seen it before?      A. No.

Q. Where were the glasses—were there any glasses?      Yes.

Q. Whose glasses were they?

A. That comes from my house.

Q. Do you know where the gin came from?

A. I don't know where it came from, but it was in the house.

Q. Did you see any drinking before you came out of the room, out of the sick-room, I mean?

A. Mrs. Houghtailing told her son that Mr. Breckons wanted something to drink.

Q. Oh, then you did hear something when you were in the sick-room?

A. I was in the room when I heard that.

Q. In the main room?      A. Yes.

Q. What part of the conversation was that?

A. What?

Q. When did Mr. Breckons say to your son he wanted a drink?

A. No; Mrs. Houghtailing told her son that Mr. Breckons would want something to drink. [269]

Q. What time in the conversation did Mrs. Hough-



(Testimony of Mrs. Lahapa De La Nux.)

tailing ask your husband or told your husband that Mr. Breckons wanted a drink?

A. After they had finished their conversation?

Q. Well, was this after you had been in the sick-room and had returned? A. Yes.

Q. And after that, during the time, you say you can't recall anything that was said, Mr. Breckons took at least two drinks?

A. Yes, that is what I remember.

Q. And who else drank and how many?

A. Mrs. Houghtailing.

Q. How many times?

A. I remember that she took one small glass.

Q. That is all you remember?

A. That is what I remember.

Q. Anybody else? Mrs. Richards.

Q. How many?

A. As I remember it, it was two.

Q. Anybody else? A. That is all.

Q. And you and George took nothing at any time?

A. No, I didn't see my husband drink.

Q. Can you say he didn't?

A. He is a man that drinks, but doesn't drink while he is working.

Q. I asked you at that time whether you can say he did take a drink or not? A. No.

The COURT.—What do you mean by that—no, you do not know or he did not?

A. George didn't take a drink. [270]

Q. Now, you have spoken about another conversation which you had at Aiea, your husband and Mrs.

(Testimony of Mrs. Lahapa De La Nux.)

Houghtailing, were present, in which Bathsheba's name was mentioned, when was that?

A. A great while afterwards.

Q. A year after or two years after?

A. About one or two months after.

Q. Then this was, this conversation was one or two months after the first conversation which you, or the other conversation I asked you about when Mr. Breckons and Judge Larnach were present?

A. Excuse me, I made a mistake; two weeks is right.

Q. Now, you say it is two weeks after?

A. Yes.

Q. It wasn't a year or two years?      A. No.

Q. How long had Mrs. Houghtailing been at your house then?

A. After that talk with the lawyers, two weeks after that she came down to see us.

Q. And it was on that occasion?

A. After the two weeks then she left, then she came back again—she expressed her regards to George during that time the two weeks she came down—she came down on that two weeks, on that visit she expressed her regards.

Q. So that it was on a visit of two weeks after the Larnach and Breckons visit when Mrs. Houghtailing was down there that you say she expressed her regards, but she said she wanted George to take care of Henry?

A. That was a different time when she spoke about Henry.

(Testimony of Mrs. Lahapa De La Nux.)

Q. Well, did she speak about Bathsheba on this visit of two weeks after the Breckons-Larnach visit? [271]

A. Yes; she after this two weeks with Breckons came down and expressed her regards to her son, then she went back, then she came down again, then everything was straightened out with her son.

Q. I am asking you whether a certain conversation that you testified to, where you and your husband and Mrs. Houghtailing were present, where George said that he thought it was better that a thousand dollars be given or willed—to be given to Henry's children, or child, Bathsheba, when was that conversation?

A. That is the time she—when she came down to stop with us.

Q. Was that two months after or a year after or two years after, because she came to stop with you from the time of the visit, of the—after the incident where Mr. Breckons and Judge Larnach figured?

A. Three or four months after this second visit she came down and stopped with us.

Q. Do you mean by the second visit the one of two weeks after the Breckons visit?

A. Yes, after Breckons, she has explained.

Q. At that time she told George that she wanted Henry—him to take care of Henry and George said that he better give a thousand dollars to Bathsheba?

A. That is the time she called George and have a meeting and they sat down to straighten out all things.

Q. I did not ask you that.

The COURT.—What did she say?

(Testimony of Mrs. Lahapa De La Nux.)

A. She came down and said, "We can—we come to straighten this matter out. I want to take off Mr. Steere as guardian and leave everything to you as guardian." [272]

The COURT.—Go ahead.

A. "Because I now see that I am getting feeble. I want everything straightened out."

The COURT.—(Interpreting.) "And after everything was straightened out."

WITNESS.—"And after everything is straightened out all I ask of you is to look out for Henry," if George wanted to do so, that is the time George replied that his brother, knowing that his brother was a drunkard, he said, "If you want to do like that you better give it to Bathsheba"—that is the daughter of Henry—and she consented that that was a good idea. "Then after all these things are straightened out right then I will come and be with you. I want my boy and ourself and the other children—my boy George and yourself to come in on this property," didn't want Charley because he was bad.

The COURT.—No, "because his wife was a nigger."

INTERPRETER.—"Because his wife was a nigger."

The COURT.—You don't get that fully; she said, "After this is all straightened out then I will live with my son George and herself [meaning witness] and your children," and didn't want to do anything for Charley because Charley's wife was a nigger.

The COURT.—What did she *said* about Bath-

(Testimony of Mrs. Lahapa De La Nux.)

sheba—what did your husband say about Bathsheba?

A. No reason; she said it is because she knew that, speaking of Mrs. Houghtailing, that Henry was a drunkard.

The COURT.—(To Interpreter.) That is what George was saying?

INTERPRETER.—Yes.

The COURT.—Now, what did George say?

A. After all these things are straightened up George isn't [273] to forget Henry.

The COURT.—(Interpreting.) “You, George, don't forget Henry if you want to do so.” Then George said, “I think it is the best thing if you can give a thousand dollars or something thereabouts or more to Bathsheba, the girl, Bathsheba.”

The COURT.—Did he say why it should be done that way?

A. Yes; he said because Henry would not be able to take care of things; he would go around and be extravagant with it, spendthrift.

Q. Was anything said about the other children of Henry? A. No.

The COURT.—Did you think that was all right, that was a good proposition to yourself? A. Yes.

The COURT.—Didn't you think that it wasn't quite fair to leave the other grandchildren out?

A. I didn't understand about that.

Mr. WITHINGTON.—What was this affair that was going to be straightened out?

A. Wanted—Mrs. Houghtailing wanted to stop this suit.

(Testimony of Mrs. Lahapa De La Nux.)

Q. Do you know of anything that was done to stop it?

A. I don't know; all the reason I knew that she was wrong in this affair and she wanted to stop it.

Q. Do you know of any step she was going to take to stop it?

A. She left the property on my grandchildren and then on account of other people bothering her then she tried to stop it.

Q. The question asked, whether she knew of any step Mrs. Houghtailing took to stop the suit at that time? A. No, I do not.

Q. Did George suggest any step to be taken to stop the suit? A. No. [274]

That is all.

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

Mrs. REBECCA HOUGHTAILING,

Petitioner,

vs.

GEORGE DE LA NUX and DANIEL DE LA  
NUX,

Respondents.

TRANSCRIPT.

Friday, June 20, 1919, 9 o'clock A. M.

**Testimony of George De La Nux, for Respondents.**

Direct examination of GEORGE DE LA NUX, called for respondents, sworn, testified as follows:

Mr. ANDREWS.—Your name is George F. De La Nux?     A. Yes.

Q. You are the oldest son of Mrs. Houghtailing?

A. Yes.

Q. Where were you born, to the best of your knowledge, Mr. De La Nux?

A. I was told, over in Kauai, Hanalei.

Q. Who brought you up when you were a boy, a small boy?

A. Well, that is very hard question to answer, but I know most of the time I was with the St. Louis College.

Q. I mean as a young boy? [275]

A. Well, by my uncle, lived over in Hawaii.

Q. How old were you when you first knew who your mother was?

A. I think I was seven years old.

Q. Up to that time you had never seen your mother at all?     A. Her? No, sir.

Q. Where was that when you first saw your mother?     A. When I was at school.

Q. Now, then, after you got through school you graduated from St. Louis College?     A. I did not.

Q. How long did you stay there?

(Testimony of George De La Nux.)

A. Until I was seventeen.

Q. Didn't graduate? A. No, I didn't.

Q. What class was you in?

A. Oh, it was the 8th grade.

Q. How many classes in that school?

A. Altogether different; I cannot say.

Q. Well, about that time?

A. Oh, there was only one more grade after that, but what that number was I don't know.

Q. Now, when were you taken away from school in the eight grade where did you go?

A. Over to Hawaii, Hamakua.

Q. Who did you live with there?

A. Paul Jarrett.

Q. Did you go to work?

A. Not right away; that is why I lived with Paul Jarrett, and sometimes with my uncle.

Q. When did you begin work—how old were you?  
[276]

A. Well, a few, maybe a month or so afterwards, something like that.

Q. A month or so afterwards you went to work; what was that? A. In the sugar-mill.

Q. What were—where was that? A. Paauhau.

Q. How long did you work on that plantation?

A. About four years and a half, I think

Q. Did you hold any other position than work in the sugar-mill?

A. Well, I was in there four years and a half; and I got up as far as sugar boiler, and besides that I done clerical work at the Landing there, and in the



(Testimony of George De La Nux.)

plantation office helping out the plantation book-keeper.

Q. Now, then, after your four years and a half there what did you do next?

A. Then I went over to Pauillo.

Q. What position there?     A. Night engineer.

Q. How long did you work there?

A. About two to six months, more or less, something like that. I could not give the exact—

Q. What did you do next?

A. Then from there I came to Honolulu.

Q. Now, where were you married?

A. In Honokaa.

Q. Married to this lady who has just been on the stand?     A. Yes.

Q. You and she have lived together as husband and wife ever since?     A. Yes. [277]

Q. When did you first see your mother after you remember her as a boy?

A. Well, I was twenty-one then and getting married.

Q. Where was it?     A. In Honokaa.

Q. Did your mother go up there?

A. She came up there to see me get married.

Q. Do you remember what year that was?

A. 1899, I think it was.

Q. Now, when your mother came up there was there any conversation between you and her as to your future?     A. There was.

Q. Tell us what she said.

(Testimony of George De La Nux.)

A. She wanted me to leave work up there and come to Honolulu with her.

Q. What were you to do down here?

A. Well, she said she had the means, maybe it wasn't those exact words, but she could, that is, she would take care of me, I didn't have to work, don't have to bother about work any more.

Q. What did you say to that?

A. Well, I didn't agree to it. I told her that I couldn't do that, because I was a workingman, and would keep on so.

Q. She went away, went back to Honolulu, did she?

A. After a short stay there, I don't know how long it was, but she came back again. I was still staying at Hawaii.

Q. And you stayed at Hawaii until when?

A. For about a year later, that is, I stayed there a year.

Q. Then where did you go?

A. Came to Honolulu then.

Q. With your wife? A. With my wife. [278]

Q. Where did you go in Honolulu and what did you do? A. I came to my mother's house.

Q. Stayed how long?

A. I think it was six weeks.

Q. Yes.

Q. In this six weeks I was there I found employment here in Honolulu at Catton Neil at the time it was at the corner of Alakea and I think King Street. I am not well acquainted with the street—Merchants Street.

(Testimony of George De La Nux.)

Q. You found employment—how long did you stay there?

A. About three weeks; then I was sent for, that is, I was asked to go out to the plantation.

Q. What plantation?

A. Honolulu plantation; they needed a sugar boiler there, and some of the boys I used to go with to school together with—

Q. Never mind; you had a chance to go there; did you take that position?     A. I did.

Q. What—that was what date and year?

A. I could not tell you the day and—

Q. What month?

A. That was in 1901, November 25th, when I started to work there.

Q. And since that time where have you worked?

A. On the Honolulu plantation.

Q. All the time?     A. All the time.

Q. Under how many managers?

A. Mr. Low, Mr. George Ross, former manager of Hakalau, and James Gibb, the present manager.

Q. What is your position now? [279]

A. Well, I am chief engineer of all the machinery, including the mill, that is, I mean chief engineer of the plantation-mill, pumps, pumping-plants, locomotives, steam-plows, tractors, and trucks, anything in the mechanical line.

Q. During the eighteen years you have worked there have you ever been laid off or discharged?

A. Never.

Q. And you have been promoted until you have

(Testimony of George De La Nux.)

reached the present position you have now?

A. I have.

Q. Now, after you came to Honolulu and went down to Aiea did you used to see your mother?

A. Very seldom.

Q. Why was that?

A. Well, take when I was in the mill I was working on night shift, then night foreman in the boiling-house, that is twelve long hours, and I only traveled—the only way to get into town was to hire a hack, and I could not lose all that sleep and go on night shift against for twelve hours; couldn't stand it.

Q. Did she come down to see you?

A. Sometimes.

Q. Now, did you and she have any conversations as to the disposal of her property, and when did they commence?

A. When I first came to her house, after a few days I stayed there she started to talk about property, she wanted to turn it over—all over to me; she said those things in the presence of my brothers, but I would never listen to it.

Q. Now, then, after that when was the next?

A. When I was down at the plantation she visited me on several occasions, and she made this same statement, but I never took any notice of it. [280]

Q. Now, when was your oldest son born?

A. In Aiea.

Q. Do you remember the year?

A. 1902 or 1903, if I am not mistaken. I am very poor on dates.

(Testimony of George De La Nux.)

Q. Where is he now?     A. He is dead.

Q. After he was born was there any further conversation with your mother as to the question of her property?     A. There was.

Q. Where was that?     A. At my house in Aiea.

Q. Just give us the gist of that, or any other conversation that took place as to the turning over of the property to you, when *you* child was first mentioned.

A. She used to say, as I have already stated, she wanted to turn this over to me, and I wouldn't accept it, giving no reasons why until later on, and she wanted then, she was—after me not accepting her wishes at all times, she wanted to turn it over to my son—yes, turn it over to my first son, then later on of course the boy was growing, and my wife was carrying another one. I asked her to wait until the other boy was born.

Q. Now, you say you didn't give her any reasons until later on; when was that when you gave her reasons, or argued with her?

A. Well, I did state to her, I think, maybe on one occasion, because she had come to me so often, you know, why I didn't accept the, her property, and I mentioned that I had two other brothers; I only know once speaking that way to her.

Q. Do you remember what she said in reply to that? [281]

A. She didn't care for that; they were not treating her right; they had been abusing her for quite awhile, and that I was the only son that was away all by

(Testimony of George De La Nux.)

myself trying to get along in the world, and from the way she spoke it looked as though she took more of a liking towards me than towards the other two boys.

Q. Now, at these times you used to see your mother was she drunk or sober?

A. Well, sometimes she was perfectly sober, sometimes she may come there with a drink or two, that I could not say, but perfectly sober at all times when she talked property affairs with me.

Q. Now, you have heard her statement and the statement of others that she was drinking all the time, or words to that effect, a common drunk; what have you to say as to that as far as your knowledge of her is concerned?

A. I cannot say—that I could not say for myself because I very seldom saw my mother in—until 1918—during the eighteen or nineteen years I was out there.

Q. Now, the times you did see her what do you know of her drinking?

A. Well, I can say this much, I have seen her take a drink, take two drinks, but as far as the drunk part of I always thought that she was a lady.

Q. Did you ever *see so* intoxicated that you could call her drunk?     A. I have not.

Q. There has been a suggestion here—I don't know whether there has been any testimony—that you used to bring drink up to her house in Kalihi; is that true or not?     A. It it not so. [282]

Q. Did you ever, to your remembrance, ever bring her any intoxicating liquor out to her house at all?

(Testimony of George De La Nux.)

A. I did not.

Q. As to your own family, are you a drinking man, Mr. De La Nux?     A. I am not.

Q. How about your wife?

A. It is the same, she is not a drinking woman.

Q. Do you have liquor in your house or did you before prohibition?

A. Yes, I always keep it in the house, that is, sometime I don't have it, but always could get it in case of expected company around.

Q. Now, then, in other words, you are not what the Hawaiians call a missionary—you had liquor for friends?

A. I am not a missionary; I am not a drunkard.

The COURT.—You say you are not a drunkard; do you mean you don't drink at all?

A. Sometimes I may go along for three or four years; I have seen the time there where I hadn't touched a drop for seven years. I don't make a practice of it, but as I say, if some visitors come to the house or I go to a friend's house, I may take a glass of beer, something like that, just for the company part of it, that is all.

Mr. ANDREWS.—The same with your wife?

A. The same thing.

Q. Now, then, to get down, you suggested—the last thing you testified to, you suggested to your mother when she asked you about settling up this property matter, to wait until your wife gives birth to the second child; now after the second child was born did anything happen? [283]

(Testimony of George De La Nux.)

A. Yes, she kept coming at me again about this property, but giving it to me, she didn't say to give it to my two children, but to me personally, and I kept putting it off, that is, I would have nothing to do with it.

Q. Did she go into any details what she wanted to do, give you what arrangements you were to make for herself or anything like that?

A. Go into details of what she had?

Q. No, I will ask you, afterwards, did she state how she wanted this to be done, turning over all the property to her, what was she to get, or what was she to have—

The COURT.—To her?

Mr. ANDREWS.—To you, I mean.

WITNESS.—No.

Q. Tell us what she suggested—what her suggestion was, what she wanted to do.

A. The only thing she said to me, she wanted to turn all her property over to me. How it was to be done, I don't know, I never asked, because I never was posted about land matters, or land affairs.

Q. Did you know at that time or at any time the amount of her property?

A. I did not. I do not until this day,

Q. She never told you? A. Never.

Q. You never investigated?

A. I never asked her, and I never investigated.

Q. Right up until this testimony was given here?

A. Never, right up until this testimony was given here in this court.



(Testimony of George De La Nux.)

Q. Now, then, Mr. De La Nux, we got as far as she asking you to [284] take over the property, and your two children were born, what happened after that?

A. Well, I don't know. I felt this way, I didn't know what she had, and I didn't care to know, and I didn't want to, because I was getting along in this world by myself, I wasn't waiting to get something from anybody, get anything from anybody, except working for it, so one time when she came down, I said, "If you want to do anything like that you can give it to my two children, if you think that is all right; that is up to you, you can give it to my two children as far as I am concerned, but as far as I am concerned, I don't want it."

Q. What happened after that?

A. Well, she left, and a few days after that last conversation, if I remember right now, she left and she came down again, and asked me to come up to Honolulu with her and have the thing made out. I had kept putting it off, putting it off, putting it off, I did not know what she had; I wasn't going to be bothered with it. Well, I knew at the time that she had this home, that is all I knew she had, was this home in Kalihi, because I went to live with her there for a few weeks, outside of that I didn't know nothing, so with this coaxing continually, coaxing, I did come up with her, my wife and me, and we went to Correa's office.

Q. Did you know Correa at that time?

A. Never saw him in my life.

(Testimony of George De La Nux.)

Q. Had you been consulting with him about this deed or any other property?

A. I was a perfect stranger to this gentleman, didn't know absolutely where to go.

Q. Who did you go to this office with?

A. My mother. [285]

A. My mother.

Q. Who went with you?      A. My wife.

Q. And your mother—

A. My mother took me to Correa's office.

Q. Then you come to Correa's office, what happened there?

A. Well, there was a conversation there, and she wanted to give all her property over to me, over to my two sons, and Correa came out with a paper and read it to my mother.

Q. Was the paper made before you came there?

A. Oh, yes, because we were only there a few minutes when we walked out again.

Q. (Mr. ANDREWS.) Handing you Plaintiff's Exhibit "F," is that the paper that Correa?

A. I guess that is the one; I didn't know of any other one.

Q. When Correa brought this paper out what was done with it?      A. He read it to my mother.

Q. What was said after that, or done?

A. After he read it he asked her if that is all right, and she said yes. I don't think we were there more than five or six minutes to my knowledge, and he then directed us to go to William Savidge's. I don't know where it was, and he pointed it out across the street

(Testimony of George De La Nux.)

opposite the bank, and my mother and I *we* went together.

Q. And did you see your mother sign this?

A. I did.

Q. Did you see Savidge sign it?      A. I did.

Q. Who was it given to when Savidge had signed it, put his seal on it, did she keep it, or to you?

A. She gave it to me. [286]

Q. I call your attention to the fact that the original body of the deed recites the date as the tenth day of July, and the acknowledgment is the eighth day of November, both in the year 1905; did you go there more than once?      A. Once.

Q. The day that Mr. Savidge put his seal on it?

A. That is the only time.

Q. That is the date she signed it?      A. The day.

Q. Six months before it was drawn; can you explain that?      A. No.

Q. You don't know anything about it?

A. I don't know anything about it.

Q. Now, then, when this was given to you was anything said about recording it?      A. Yes.

Q. Tell us.

A. When we walked out of William Savidge's office there we stopped a little ways on the street there towards the Ewa side, and she asked me, or she wanted me to promise her one thing, and I said, "What is that?" "Not to let anybody, not to let anyone know about this." And again I asked her why, and she said that she was afraid of Mark Robinson, if he found out he might make trouble for

(Testimony of George De La Nux.)

her or she could not get any money from him, and I said I would do that. I promised her to keep the thing quiet. She said furthermore, that is, to keep the thing quiet until after her death. Being ignorant of these things I said that was all right and keep my word.

Q. When did you record it—you did record it finally?

A. Yes; we were living down at Halawa then, I mean this particular time at Halawa she came down there on three or [287] four occasions, and on two occasions when she came down there the boy Georgie, of course, when he saw the grandmother he was quite—he was quite a boy then, about five or six years old, something like that, and very shy, and he used to run away from his grandmother, and of course his grandmother did like that. On another occasion when she came down it was the same thing; maybe on those other times for all I know; anyway she came to me and said she wanted to change the property or thing over to my smaller boy, and I asked her why. “Well,” she said, “every time I come around to see you people this son of yours always runs away; I don’t like it.” She fancied the smaller boy more that is living to-day, she wanted me to agree to have that thing changed over to the smaller boy, but I could not see it that way. She says that she was going to have it changed, that is all; she says, “I have been to a lawyer in town,” and said that she could have it changed, and I said, “You can go ahead and do so.” The very next morning the chief engineer

(Testimony of George De La Nux.)

of the pumping station, he came around, and I took this paper to him to have him look it over, and I asked him if that is all right, and he said, "No, you better go right up and have it registered." Then I came up got on the train, and came to Honolulu, and had the paper registered.

Q. What have you to say, was there anything specially said, about—she has testified that she only wanted to give you only the Kalihi property?

A. Nothing like that was ever mentioned to me, never; it is, "her property."

The COURT.—When was the younger boy born, Daniel?

A. In—somewhere between 1903 and 1904; I think it was in 1904; he is going on sixteen now; his last birthday was [288] on April fifteenth, and he was fifteen.

Q. Born April 15, 1904?

A. Yes, I was down at Waimalo then on this pump.

Mr. ANDREWS.—Now, then, after you had this recorded, things kept on the same between your mother and you, she visits you and you visit her?

Mr. WITHINGTON.—I object to that as leading.  
Question withdrawn.

Q. Now, during all this time, after the signing of the deed, what can you say as to your mother visiting you or you visiting her from 1905?

A. I don't quite get that.

Q. From 1905 when this deed was signed before William Savidge, acknowledged before Mr. Savidge,

(Testimony of George De La Nux.)

after that did your mother continue to visit you and you visit her?     A. Yes.

Q. And did that continue right up till the bringing of this suit?

A. Well, now and again but—

Q. Did you visit her at different times in her house at Kalihi?     A. Very seldom.

Q. At any of these times did you ever find her when you visited her, or when she visited you, in 1905, intoxicated?     A. I did not.

Q. Now, when your mother stayed at your house did your mother stop, stay at your house for a week, or three or four days, or how long a time, for a long time?     A. Yes.

Q. Now, at any of these times did she ever use, indulge in liquor to excess?

A. Not in my house, because I wouldn't allow it.  
[289]

Q. Did she try to?     A. No.

Q. Tell us what you know of her drinking at your house, tell us just about what she used to do.

A. Before meals she will have a drink.

Q. Anything else?

A. Do you mean as to her drinking?

Q. Yes. Was there any time she didn't drink at all, or all the time?

A. She didn't drink all the time; she takes a drink before meal; sometimes when company is there she will be in with the company.

Q. And the drink which she had was the drink which you always kept for company and for visitors?

(Testimony of George De La Nux.)

A. Yes.

Q. Now, then, when was the—what was the first time you knew that there was any trouble about that deed that you claim—the claim that she didn't know that she had signed that deed to your children?

A. I think Breckons wrote me a letter.

Q. Was that before he visited you and Mr. Larnach? A. Before he visited me.

Q. How long before, do you remember?

A. Maybe fifteen—do you mean before? Might have been a year or so, I could not say.

Q. You do not remember, a year or so before he visited you? A. No.

Q. Was anything said or done after that, after he wrote you that letter?

A. No, the thing died away, there was no more, never a word, no more about it until quite awhile after, until the trial of this suit; that is all I know.  
[290]

Q. What happened quite awhile after he wrote you that letter—anything?

A. Mr. Breckons, Mr. Larnach and my mother, May Ann Richards, and my brother Charles' wife—I don't know her name—they all—

Q. They all came down to your house at Aiea?

A. They did.

Q. When did they get there, in the evening, day time or when?

(Recess.)

Question repeated.

(Testimony of George De La Nux.)

Mr. ANDREWS.—When did they come to your house?     A. In the afternoon.

Q. You were working?     A. Yes.

Q. Your wife sent for you and you came there?

A. Yes.

Q. When you got there what happened—tell us the gist of what you remember.

A. We started to talk about this deed affair.

Q. Who started it?

A. I think it was Mr. Breckons.

A. All right; do you remember what he said?

A. He started to tell me that my mother's intentions were only to give the Kalihi home to your children; that is the words he used.

Q. What did you say?

A. I think that I said that she gave all her property to my children, and of course there was a little talk back and forth that she never intended to do that, "Yes," I said, "I had nothing to do with it; it was my mother's own doings." The conversation was very short, and he then started to [291] tell me about what was to be done—that is, what my mother wanted to have done.

Q. What was said?

A. To give the Kalihi home to me, to my two children, and divide up the rest of the property amongst the boys. That is the meaning, I think, myself and my two brothers, and I didn't agree to anything like that.

Q. Was there anything else said?

A. Well, then I started to ask my mother ques-



(Testimony of George De La Nux.)

tions, only three questions, I think, I asked her. The first question was, "Did you make out the papers the way that she did," and she started to cry, and I says, "Now, Mother, you came here for business purposes, and not to cry," I says, "Brace up," and I got off my chair and went over to her to humor her along, that is, not to cry, and I went and sat down again, and she braced up, she says, "Well, you know, Sonny, I am Mama, is something like that, is a drinking woman, and I didn't intend to give you everything; it was only the home," so I came with the second question, asked her if I had forced her, and if I was the one that had her make the papers out, and the third question—

Q. What did she say?

A. She didn't answer; the third question, I says, "Ain't it so, the way your two sons have been treating you all these years, that you made out the paper the way you did, the way it is to-day?" I followed that right up, "Ain't it so, they used to call you a son-of-a-bitch, call you a bastard, used to call you a whore?" I says, "Ain't that the reason you made that paper out to, the way it is to-day?" and I got worked up while I was saying those few words. Excuse me, excuse my language, your Honor. That is the way it ends up. [292]

Q. What did she say to that?

A. She said, "Yes," and I said,—no, I said before, excuse me, before this, these questions were asked; I asked my mother to tell the truth in the presence of the lawyers who were in the house, I wanted her to tell the truth, and she did.

(Testimony of George De La Nux.)

Q. All right; after she said yes to that, what happened?

A. Nothing much more was said about the deed—in fact, I don't remember anything more about it. When we stopped talking about she asked me if I had anything to drink in the house, for me to get some for Mr. Breckons, and I went in and got it. I think the bottle was a little below half full.

Q. Bottle of what?     A. Gin.

Q. Ordinary, square-face gin?

A. Yes; I brought the bottle in with, I think, four glasses on it. I didn't know Mr. Larnach didn't drink, but I brought, I think, it was four glasses with water and the gin and sat it on the table and they helped themselves.

Q. Now, who helped themselves, who drank?

A. The only parties I saw drinking was my mother and Breckons. I do not remember anyone—

Q. Had your mother had any drink at your house before that that evening or that day?

A. I did not see because I brought the gin in myself.

Q. Before that was any gin drank?     A. No.

Q. Was she intoxicated at that time?

A. I don't think so. I never noticed anything wrong with her; she was perfectly sensible; knew what she was talking about.

Q. What about the drinks that she took—did she take more than [293] one drink afterwards?

A. I think she only took two glasses; the glasses were very small.

(Testimony of George De La Nux.)

Q. Did you see Mr. Breckons drink the rest?

A. No; he took, I think, it was three.

Q. Was he the only other one that was drinking?

A. Yes.

Q. You didn't drink or your wife didn't drink?

A. No, sir.

Q. Now, then, did they all get up and go away?

A. Yes, shortly after that they all started for home.

Q. You do not remember anything else that was said about it, about the deed?     A. No, sir.

Q. Didn't say anything of what they were going to do, anything like that?     A. No, sir.

Q. After that did you see your mother—how soon after that did you see your mother?

A. I think it was a couple of weeks after.

Q. How did you come to see her that time, where was it?

A. In my house, she visited me.

Q. Now, was anything said between you and your mother at that time when she came to visit you?

A. About the deed?

Q. Yes, all—at all times.

A. Yes, all times she visits me she speaks of, about her property.

Q. Well, at those times did she explain anything or say anything of why she came down with Breckons and Larnach, or anything? [294]

A. Yes, she said she wanted me to look after her affairs or be her guardian, not exactly that word, guardian—

(Testimony of George De La Nux.)

Mr. WITHINGTON.—Was this two weeks afterwards?

Mr. ANDREWS.—Two weeks afterwards, was it?

WITNESS.—Yes.

Mr. ANDREWS.—This was the conversation two weeks afterwards, I will ask you—withdraw that question. Now, after the visit of two weeks after, how long did she stay at that time?

A. I think she only stayed a few days, to the best of my recollection.

Q. All right; then where did she go?

A. She went back to Kalihi, I suppose.

Q. All right; now after that, did she again visit you? A. She did.

Q. When, how long afterwards, about, can you remember—give us your best. A. I cannot give—

Q. At that time, three or four months after, a year after. Give us the best of your remembrance.

A. I think she came down two weeks after the visit by her attorneys and said she wanted—well, after staying there a few days. I don't quite remember exactly what took place, I mean, how that happened, but she came down there and talked to me about Mr. Steere.

Q. That was the visit two weeks after that she talked about Mr. Steere, was it?

A. I cannot say positively—well, yes, I think so.

Q. It was during those two or three days?

A. Yes, she sat with me, and she called me and my wife to come into the parlor and said she wanted to talk to me, it was after supper, and I asked her what

(Testimony of George De La Nux.)

it was, and she [295] said, she spoke about Mr. Steere,—I didn't know Mr. Steere, I didn't know who Mr. Steere was, and I asked her who he was, and she said Steere had been appointed her guardian by the Court and she could not get any money from him, and she wasn't, that is, she wasn't getting enough money, and wanted to know if I could not help her out, and I said I would try.

Q. All right; what else, if anything?

A. Then a day or so went by, at the table we were having—well, we were having our meals, she got talking to me about this same affair, but I wouldn't give her any answer one way or another—that is, what I would do, or could do, or anything at all.

Q. What do you mean, this same affair?

A. It is about Steere affair, remove him as her guardian, and for me to help her out, and I said, “Now, look here, Mother, I ain't going to give you any answer one way or the other, because some day you may say or tell someone that I was the one that urged you to do whatever might be done,” I says, “Now, I ain't going to give you a chance, Mother. I am going to have nothing to say about it whatever. Whatever you say I will try to do for you.” And I repeated the thing over the second time, “I ain't going to give you a chance to say anything, that I was the one that asked you to do it.” Then she says, “Well, Sonny, if we do it this way we go up to Honolulu and have a paper made out.” I think she mentioned Judge Whitney, about having a paper made out turning the thing over to you—no, I got that

(Testimony of George De La Nux.)

wrong, that comes later on—she asked me to write a letter to Breckons; that was it, this other matter came later on—she asked me to write a letter to Breckons, and I sat there at the dining-room table there and wrote [296] out, I don't know just what the thing is to-day, but—

Q. Wanted you to write a letter to Breckons—what about?

A. I gave it to her to make a copy of it.

Q. Did she tell you what she wanted to write to Breckons about?

A. Yes; because they had charged her five hundred dollars for the first, that is for the beginning of the case, and nothing was done, she was very much put out about the charge that they had made against her—that is, she had to pay five hundred dollars before they could go ahead with the case.

Mr. ANDREWS.—I hand you this letter; this is dated—is this the Breckons letter?

A. (Hands witness letter.) Well, I didn't write this one, but I wrote—

Q. This is dated April 3, 1917.

A. Oh, yes, that is what I was talking about a little while ago, came later on.

Q. That is, some months after they came down to see you in 1916, isn't it?     A. Yes.

Q. Now, you remember—let me hand you the power of attorney, signed before Judge Whitney, that is February, 1917?

A. This, yes; this was all later.

(Testimony of George De La Nux.)

Q. This was before the letter, two months and a half?

A. Yes, that is right, that is right.

Q. Now, which came first, when did—do you remember when she came down to live, you say, for two or three months?

A. That is when she took sick.

Q. When was that—have you any idea of that date? A. I have not. [297]

Q. Was this Whitney—this power of attorney, when she was with you sick, when was it when she came down, as you say, two weeks after this conversation with Larnach and Breckons?

A. She wasn't sick.

Q. Was this before she was sick?

A. This was before she was sick.

Q. Sure of that? A. Sure of that now.

Q. Now, *was*, then, was this the time that you are speaking about a conversation some weeks after Mr. Larnach and Mr. Breckons came there?

A. Was that—what is that, again?

Q. When was this conversation about going to Judge Whitney about removing Steere—was this during the weeks, the conversation you had about two weeks after the visit or was that another time, still?

A. That I could not state. I could not state the date or when it took place.

Q. Now, this conversation—was there any conversation before you went to Judge Whitney's office?

A. Yes.

Q. She spoke about—

(Testimony of George De La Nux.)

A. She spoke about it herself.

Q. Now, what was the result of that, after she had spoken about it, what did you do, or she did?

A. Well, then I agreed to it just to help her out.

Q. You agreed to what, in what way—what did you do?

A. Nothing. I said, “All right, I will go along with you.”

Q. Did you go with her?

A. Yes, we got into the machine and we came up to Honolulu here, we stopped off, I think, outside here (indicating outside this building.) [298]

Q. All right; what happened then?

A. Then she took me to Judge Whitney’s office.

Q. Had you ever seen Judge Whitney before?

A. Never; didn’t know the man.

Q. What happened when you got to Judge Whitney’s office?

A. She took me over to the office, that is the thing, the first thing, took me to Judge Whitney’s office, when she took me in there, we went in there; she started to talk to Judge Whitney, and explained what she wanted to have done. I was sitting a little ways back in another chair; after their conversation was all over, and one thing I took particular notice of, she said to Judge Whitney that she wanted, that is, she wanted—“I want my oldest son George, my oldest son to”—I cannot give the exact words, but to represent her, to be her agent, that is, to give me the power of attorney to act for her.

Q. What did Judge Whitney do, if anything?



(Testimony of George De La Nux.)

A. Well, I know then, I saw him go to the typewriter there and write out something after—thought it was this paper here.

Q. Did she sign it for him?      A. She did.

Q. Did you say anything to Judge Whitney at all?

A. No, had nothing to say; none of my business.

Q. Now, then, this letter to Mr. Breckons, is about the month, about a month and a half after that, dated the third of April, 1917; how did that come to be written, if you remember?

A. I remember the letter, that is, making it out, writing it out for her to copy.

Q. What about this (Defendant's Exhibit No. 1)?

A. Well, as close as I can make out, this letter was written or she was sick, she came down to my house; she was sick [299] at the time, very sick, and she had then told me that she was—she had enough of those people, that she didn't want anything more to do with her lawyers—well, in fact, the whole lot of them, that she was through with them, and I never gave no answer one way or the other, I was playing safe. After a few days, afterwards she kept talking about the lawyers again, that is, about these matters, that is, about Steere and Breckons and Mr. Larnach and the rest, they had urged her to bring suit against me, that she didn't want to go ahead any more with it, and then I says, "Well, it is up to you, whatever you want done, I ain't going to suggest anything," then I says, "At your request I will write our a little letter and you can read it over; if you think it is all right you can do the writing yourself."

(Testimony of George De La Nux.)

Q. What did she do?

A. That is how this letter came about.

Q. Was she intoxicated at the time or drinking any liquor at all?

A. She was too sick to take any drink; never accept any, all the time that she was a sick woman in my house.

Q. Was she taking any liquor at all?

A. None at all.

Q. Now, then, about the—about a month after that, the 24th or 22d of May, suit was brought against her (you) by you (her), was she living at your house then—you remember when the papers were served on you, you remember that they were served on you?

A. Yes.

Q. Had she gone away then?      A. Yes.

Q. Now, your wife has testified to a conversation in which [300] Mrs. Houghtailing said that she wanted to speak to her (Mrs. De La Nux) to her son, then she called to you and you and your wife into the parlor and you three had a conversation which your wife has testified to; do you remember any such conversation?      A. I do.

Q. Now, when was that—do you remember which visit?      A. I could not state.

Q. You could not state whether it was the time shortly after the visit of Larnach and Breckons, or whether it was the time when she came down sick with you or some other visit?

A. Repeat that question.

Q. Do you remember what time she had this con-

(Testimony of George De La Nux.)

versation with you, the time she stayed with you because she was sick, or the time when she was, just after the Breckons-Larnach visit, or what time—do you remember? If you don't, say so, if you do, tell us. A. That I could not say.

Q. You have had a paralytic stroke, haven't you, Mr. De La Nux? A. Yes.

Q. How long ago? A. Since 1914.

Q. Since that time have you had a little trouble with your head?

A. Oh, right along; have to be treated by the doctor right along.

Q. Now, do you remember, can you tell us what happened at *a* that conversation that your wife has told us, do you remember what the words were, said, at that conversation?

A. Well, we started to talk over this matter and she said [301] that she did not want to see Charley, my brother Charley, I *don't whether*—anyhow she didn't want to see his wife get any because she was a nigger. Those are the exact words she used, but the other words before that I can't recall it now.

Q. Did she say anything about Henry?

A. Henry? Yes, she was—she liked Henry, and in all of her visits to me at all times she always spoke well of Henry.

Q. Now, your wife has said something about, that she wanted you to take care of Henry after she died?

Mr. WITHINGTON.—I think the witness ought to be questions, not to give conclusions.

(Testimony of George De La Nux.)

The COURT.—Objection sustained.

Mr. ANDREWS.—Was anything said about Henry, if she said anything, can you remember, in that conversation?

A. Yes, she spoke about Henry.

Q. All right.

A. Yes, she asked me to promise her after everything was all made up, all right, that is, in my favor, if I would promise her that I would remember her son, my brother Henry, and I said, “What is it?” and she said she liked Henry. As soon as she said that, I said, “All right; what would you want—what would you like to have done?” and she said, she wished that I would take care of him, and I said, “Well, being that you like Henry”—no, she wanted me to help out Henry, and I said, “Well, in what way?” well, she said, she didn’t say in what way, and I said, “Well, then, why do you want to give Henry anything—what do you want to give Henry?” I said, “Why give him anything?” because, I took the stand, that is the way everything was going to be all right; there would be nothing left except money, so I says to her, “If you want to do anything for Henry,” [302] I says, “you better give it to his daughter, and because Henry—you know Henry is a drinking man, he will only spend it,” I says, “whatever you say the thing, what, whether it is a thousand dollars or more, it is up to you”—this was only a suggestion on my part at that time when I said that, a thousand dollars or whatever it may be, place it into the hands of someone that will take care of it

(Testimony of George De La Nux.)

for her until she is of age. And she thought that was a very good idea.

Q. For whom?

A. For this Bathsheba; at the time I was only speaking of Bathsheba—why I only thought of her this way because I had altogether forgotten my other brother's children, because this Bathsheba I used to see her more frequently than the others. I don't know, and didn't know where they are, naturally I spoke of Bathsheba only.

Q. That was all that was said?

A. That was all that was said.

Q. That is all you remember?

A. Yes, that is all.

The COURT.—Did Charley have any children at that time?

A. Yes.

Q. You knew that he had children?

A. Yes; how many I didn't know.

Q. How many children has he got now—Charley?

A. I don't know who his children—how many, I don't know.

Q. How many children did Henry have at that time?

A. Maybe—well, I only know of three children.

Mr. ANDREWS.—That is all. Oh, one more question.

Q. Did you at any time urge your mother to deed to you or to your sons either the Kalihi property or all her property [303] or anything?

A. Never once in my life.

(Testimony of George De La Nux.)

Q. Did you ever make any arrangement for her either to go to Judge Whitney or Correa or any of these other lawyers to have these papers signed?

A. I never did.

Q. Did you suggest writing this letter to Breckons

A. I did that; yes.

Q. How did you come to do that?

A. Well, she was—she could not—she told me she could not get enough money to take care of herself; she had paid out lots of money and got nothing in return for it, and she was absolutely tired of them and had asked me three or four different times in my house there to help her along; of course I didn't know which way to go about it, finally I thought of this letter proposition, and I wrote it out and gave it to her to read, and asked her if it was all right and she said yes.

Mr. ANDREWS.—That is all.

Cross-examination.

The COURT.—Have you and Henry been on good terms right along?

A. Yes; we have never had any fights with none of my brothers.

Q. Been on good terms right along with those boys?

A. I can't say good terms. I see Henry more than Charles; never had no rows or fights or anything.

Q. No fights at all?

A. Not at all, none whatsoever; there was no occasion for it. I see Henry; I come into town some-

(Testimony of George De La Nux.)

times, and on going to [304] the iron works through business for the plantation, I see him, meet him in the road—very friendly, not to speak to at all times when I did see him.

Q. But you don't bear him any hatred or ill-will, do you?

A. I do not, never once had a bad word for any of my brothers, never said—never spoke to anybody about my brothers.

Q. When your mother spoke about remembering Henry you felt it wasn't a wise thing to do to give him anything on account of being a drunkard?

A. Yes.

Q. Why didn't you suggest that the money be given to somebody to keep for Henry—let Henry have the income?

A. I didn't have that idea at that time or even up till now. I only had this one idea, that is, I thought it was the proper thing to do, to give it to his oldest daughter.

Q. At the time you knew the daughter was too young to take the money herself, so you suggested it to be given to somebody else to hold for her?

A. Take care of whatever she was willing to give her until she came of age; and I further stated that she did not have to know anything about it until she was of age.

Q. You did not think about the other grandchildren, only thought of this Bathsheba and your own?

A. No, it is this way. I hadn't seen the other children for years, never come to my memory, that is,

(Testimony of George De La Nux.)

never gave me a thought about those. I saw Bathsheba more than the others and naturally lost track of the other children, and my mother never asked why not see that some of the other children—never gave it a thought.

Q. Do you remember way back in 1905 when she wanted to [305] give the property and you said you didn't want the property yourself, you told her there were two other brothers?

A. Yes, that same statement, those same things were put to me away back in 1901 when I first came from Hawaii, and I told her the same thing, told her right along up until I had two boys of my own.

Q. Up to that time she had no use for Henry?

A. Well, she had no use, at times, I guess, but she always spoke about giving me everything because my other brothers didn't treat her right.

Q. At that time?      A. At that time.

Q. But back in 1917 you said that she thought a whole lot of Henry?

A. Yes; she told me that in my own house, told me to promise not to forget "your brother Henry," but she didn't say what it was, property or land or money or anything, and I offered this other suggestion because of him being a drunkard, to give whatever it might be to his daughter, I had forgotten, absolutely had forgotten about the rest of the children.

Q. Was Henry a drinking man way back in 1905?

A. I guess he was.

Q. At the time you wanted your mother to divide the property between all the boys, in 1905?



(Testimony of George De La Nux.)

A. I always said that up till the time—well, it is this way, your Honor, even after the deed was made, she kept talking to me about the property all the time, but the thing was made out and I had no more to say about it; before that she would talk about the property, and I would tell her that I had other brothers, [306]

The COURT.—Up to what time?

A. Well, that would be up till the time the deed was made.

Q. Up to 1905 the time the deed was made you wanted her to divide all the property between all the others?

A. Yes, I wanted her to divide all the property between my brothers and myself.

Q. In 1917 when she spoke about Henry you said, “No, give it to Henry’s daughter, Bathsheba?”

A. Yes, but there was no mention about property, nothing said, whether it was property or money whatever it might be, whatever it might have been.

Cross-examination.

Mr. WITHINGTON.—I understood you to say that you first saw your mother when you were married, since you were a boy?

A. No; when I first saw my mother was seven years of age, going to school.

Q. Did you say that you first saw your—when you were married that was the first you had seen your mother since you were a boy? A. Yes.

Q. When was it that you first saw her—when you were a boy?

(Testimony of George De La Nux.)

A. Well, the best of my recollection, I was about seven, six or seven years old, something like that, she brought me some clothes.

Q. How long did you continue to see her at that time? A. Only saw her once in twenty years.

Q. What year did you say you were born?

A. 18— I am going on what was told me by my uncle; may not know it correctly.

Q. You have been told when you were born?  
[307] A. 1866.

Q. How old are you?

A. Forty-three, according to my uncle. It was 1876.

Q. What year were you married?

A. In 1900—no, 1899.

Q. So up to that time you had never seen your mother but once?

A. That is the best of my recollection.

Q. And when she came to your marriage then she asked you to come to Honolulu and she would take care of you? A. Yes.

Q. But you said you were working? A. Yes.

Q. When you did not come to Honolulu you did go there to live, did you not? A. I did.

Q. After a while you got this job at Catton Neils, and after another little while you went to Aiea?

A. Yes.

Q. And since you have been there continuously on that plantation? A. Yes, sir.

Q. I understand you have seen your mother rather seldom since then?

(Testimony of George De La Nux.)

A. Very seldom since I have been on the plantation.

Q. Now, when you—when did you first hear about any deed to your two children?

A. Do you mean about the suit or the deed made to my two children?

Q. Of the deed being made to your two children?

A. That was several years after the last, the second born child. [308]

Q. Born April 15, 1904?      A. Yes.

Q. So the first conversation you had in regard to the deed with anybody in regard to the deed to the two children was some time in the summer of 1904, that is correct, isn't it?

Mr. ANDREWS.—I don't understand that he said that on the first conversation.

Mr. WITHINGTON.—I only want to know when the first—

The COURT.—In direct examination he spoke about making the papers to the two children, and they were expecting another one.

Mr. WITHINGTON.—I am asking when the first—perhaps I put it the other way. You testified that you suggested to your mother of waiting until this second child was born; that is correct, wasn't it?

A. Yes.

Q. That was before the birth of that child?

A. Yes.

Q. When next was there any reference made to a deed to the two children, any conversation about it?

A. I will state it this way, about the children,

(Testimony of George De La Nux.)

making a deed of the property over to my two children.

Q. I don't want you to restate; I want you to give the time.

A. Well, got to do it—

Q. I want you to answer my question; you testified on direct examination to this conversation in which you suggested waiting until the second child was born. I want to know when there was next any conversation in regard to this deed.

A. There was no other conversation mentioned about the deed only up till the time, that is, several months after when my mother came down to see me at Waimalo and asked [309] me to come up to Honolulu to have the thing made up right away; she didn't want to wait any longer.

Q. That is the time when you did come up?

A. Yes, when I did come up; I didn't know anything about the deed, no mention about the deed.

Q. I am asking you merely with reference to the time, Mr. De La Nux. Please confine yourself to my question; then the next reference to the deed was when your mother came down to Waimalo and said that she wanted to have the deed made and you and she and your wife went up to Correa's office; that is correct, is it? A. Yes.

Q. Now, what do you mean that it was several months after the birth of your child?

A. Because after the boy was born she visited there, only stayed a few days, go away again, came back again, stayed a few days, go back again, then

(Testimony of George De La Nux.)

come back again and stay a few days, keep on like that for several months, that I couldn't state the years or the day or the time, only what is shown here on the paper, but I know the day when she came down there the last time and asked me to come down with her to Honolulu.

Q. Now, was there any—no reference made until this day when she asked you to come to Honolulu and the deed was acknowledged, was there no reference at any of these times she came down for the execution of the deed?

A. I didn't know nothing about it, the only day we came together was at Correa's office.

Q. I am asking you whether she ever referred to it at any of those times down at your house?

A. No.

Q. Didn't refer to it? [310] A. No.

Q. So that you knew nothing about it until she asked you to go up to Correa's office?

A. Absolutely nothing.

Q. What did she say at that time?

A. She came down and told me, "Now," she says, "I want you to come up to Honolulu and have things made out, and I don't want to delay any longer," and I said, "All right." What was done before that, or if there was anything, I know nothing about it, because she mentioned nothing; we came up, we got on the train and came up to Honolulu and she took me to this office of Correa.

Q. She said to you then, "I want you to come up to Honolulu and have things made up"?

(Testimony of George De La Nux.)

A. Yes, she wanted to fix up her things, in other words.

Q. Did she say "things made out"?

A. That is a good many years ago. I can't remember the exact words she said.

Q. Is it what you just said now?

A. I said "deed," but I don't remember whether those are the exact words she said; in other words, she wanted me to go up with her to have things straightened out, made out.

Q. She wanted to have these things made out, straightened out?

A. She wanted to turn everything over to me, to my two sons.

Q. I understood that, but I am referring to her exact language; as near as you can recollect at that time, when did you first hear of Correa's name?

A. When we went to his office.

Q. Before that she hadn't mentioned Correa?

A. No.

Q. As far as you now can recollect she didn't say a word [311] excepting—didn't say anything about the deed except what you have testified?

A. Well, because I was ignorant of those things at that time.

Q. When did you become otherwise than ignorant, when did you become wiser than you were at that time about this deed?

A. Well, when the thing was filed in court here.

Q. Then you ceased to be ignorant?

A. I said I was ignorant of that particular thing.

(Testimony of George De La Nux.)

Q. Now, had you at any time said anything to your mother about her promise to make out a deed to the two,—to the child who was born and the unborn child, previous to this time when she came down to Waimalo, had you reminded her of her promise at any time?

A. Reminded her of her promise?

Q. Yes.

A. What promise?

Q. She said she wanted to make out a deed to you—that is before 1905?

A. The deed wasn't mentioned, the property.

Q. Wanted to make over the property to you?

A. Yes.

Q. And you suggested making it over to your children; is that right?

A. Not in the first beginning, no.

Q. You suggested making it out to all three of them; is that correct?   A. Yes.

Q. Then she objected to that, to them, said she wanted to make it out to you, and you suggested making it out to your children?

A. No; that was later. [312]

Q. I mean later?   A. All right then.

Q. Later you suggested making it out to your children?   A. Yes.

Q. Suggested that as there was a child to be born you wanted her to wait?   A. Yes.

Q. Now, did you ever call her attention to that at any time, to that conversation?   A. I did not.

Q. You did not?   A. I did not.

(Testimony of George De La Nux.)

Q. So that nothing was ever said from the time of that conversation which was before the birth of your second child until November, 1905, when you went to Correa's office and had the deed acknowledged, no reference to it?     A. No, not all.

Q. None whatever,—were you "playing safe"?

A. Not playing safe.

Q. What did you mean in the course of your direct examination—

A. Yes, I said, playing safe, in my house in Aiea, yes, certainly.

Q. What do you mean by that expression, playing safe?

A. I wasn't going to have any come-back. I wasn't going to have her testify that I urged her, forced her.

Q. I am asking you if you were playing safe this earlier time *when* you, in the same way?

A. This thing, playing safe, only heard that word in the last five years.

Q. I understand that; you don't have to hear a thing to do a thing. [313]

Q. In the earlier time between the conversation about waiting for the birth of the child and up to November, 1905, when you didn't refer—when you didn't call it to the attention of your mother, you were playing safe, waiting for her to bring it up?

A. No.

Q. You were playing safe later?

A. That is, this last year or two.

Q. Now, you say that you never had no—never knew anything about the amount of her property?



(Testimony of George De La Nux.)

Q. I do not.

Q. You knew she was getting money from Mark Robinson?

A. *I* this way; I have been there with her a couple of time; that is all I know about it.

Q. You have been there with her?

A. A couple of time; yes.

Q. When she was getting money?      A. Yes.

Q. Did you know that she owed Mark Robinson considerable sum of money?

A. No, until I heard it in court the other day.

Q. Never suspected?

A. No, because I never knew what she had, what she was doing with it.

Q. What made you think, what did you think was her motive in concealing it from Mark Robinson?

A. What is that?

Q. What did you think her motive was in concealing it from Mark Robinson?

A. Concealing? I don't know that word.

Q. Not putting it on record so that Mark Robinson might [314] know she was—she had made a deed to all her property?

A. She told me on the street that she was afraid Mark Robinson would find out about her and not give her any money; that is all; there was no more said after that.

Q. Didn't you think from that that she owed Mark Robinson money?

A. No; I didn't know enough in those days, about money matters, except what little I got working.

(Testimony of George De La Nux.)

Q. Didn't know enough?    A. No.

Q. You knew that she was getting considerable money, sums of money, from Mark Robinson?

A. I didn't know that.

Q. You didn't know that?

A. No; only these couple of times we went together there, I think it was forty-five dollars at one time there. I don't quite remember the other; it wasn't a very big amount.

The COURT.—When you lived with her at Kalihi?

A. That is the time we went together.

Q. Was her husband living then, Houghtailing, or before she married Houghtailing?

A. Houghtailing was dead; I didn't see him then.

Q. At that time was she living well, had plenty to eat, nice home and all that?    A. Yes.

Q. She wasn't working, was she?

A. Do you mean my mother?

Q. Yes.    A. No.

Q. Where was she getting money from?

A. I don't know, except what I was told she had an income in the Robinson estate. [315]

Q. You were told that at that time?

A. No; later on I found out about that.

Q. When?    A. When I was out at the plantation.

Q. When was that?

A. I could not state just when. I know that, remember that she was getting an income from the Robinson estate; how much I don't know, and never did know.

(Testimony of George De La Nux.)

Q. Did she have servants at that time when you were living with her?

A. Yes; a Japanese yard boy.

Mr. WITHINGTON.—When was it that you found out that she had an interest in the Robinson estate?

A. That I could not state, but I was told, that is, you know how conversation—

Q. Was it before 1905 or after?

A. Oh, long after.

The COURT.—At the time she came from Hamakua she told you she had enough income to take care of you without working?

A. Yes, she told me to come to Honolulu; she told me she could take care of me; never went into any questions; I left school when I was seventeen and didn't know enough to go into details of that kind.

Mr. WITHINGTON.—Did you know where any of this property was that was conveyed outside of the Kalihi property, homestead?

A. I do not know.

Q. Did you know that she had an interest in the Robinson block—you knew she had an interest in the Robinson block?

A. No, I don't know where it is.

Q. Did you know that she had an interest in the Bathel Street property, Bay Horse premises? [316]

A. I don't know where that is, even.

Q. Did you know that she had an interest in the—have property on Queen Street other than the Robinson block? A. I know nothing about it.

(Testimony of George De La Nux.)

Q. Property on Kauai?

A. I heard that she had property over there; I don't know.

Q. When was it that you heard of that?

A. I would say about, well, about six years, or seven years, something like that.

Q. Long after 1905?      A. Yes.

Q. Do you know the Hotel and Bethel Street, know about having an interest in property there?

A. No, I don't know nothing, excepting the Kalihi home.

Q. Now, did you know that she had an interest in Pakaka?      A. Never heard the name like that.

Q. Or Pelepo or Koehi, old homestead, stone store?

A. I don't know where those places are.

Q. Did you know whether she had property in Hoaeae in your neighborhood?      A. No, I did not.

Q. First—did you know that she had stocks in Pioneer Mill?      A. This is the first I heard of it

Q. Or Wailuku?      A. No.

Q. Waialua?      A. All news to me.

The COURT.—Did you know your grandmother at all? I mean your grandfather, your mother's father?

A. No, because when I was in school until I was seventeen—

Q. Who was your mother's father? [317]

A. I don't know of that, only what I was told.

Q. That is what I mean, anybody tell you, who was your grandfather?

(Testimony of George De La Nux.)

A. Yes; Mrs. Jaeger; her father was James Robinson.

Q. Mrs. Jaeger was your half-aunt?

A. Yes, because I visited out there quite frequently.

Q. How long since have you *know* Mrs. Jaeger?

A. I think it is going on two years.

Q. Did you know Mrs. Jaeger when you went to school?

A. No, not until this last two years; never knew her before; knew none of the family except Mark Robinson.

Q. When did you know Mark Robinson?

A. When I came to Honolulu and stayed with my mother, and she came up to Honolulu to get money.

Q. Did you know that Mark Robinson was your half-uncle?      A. Not until later on.

Q. When?

A. Well, maybe five or six years, something like that. I don't know; I could not state positively just when.

Q. About how long ago, approximately—you came here in 1903 or 1902?      A. No, in 1901.

Q. That is the time you heard of Mark Robinson?

A. No, I hadn't met him, oh, for months after.

Q. I mean in that year, 1901 or 1902?

A. Yes, maybe.

Q. Now, after that you knew that Mark Robinson was your half-uncle?

A. Well, might have been, I would say four or five

(Testimony of George De La Nux.)

years after, but I never believed it. I could not see how it was possible.

Q. Never spoke to your mother about it? [318]

A. No.

Q. Did you know Mrs. Allen, Bathsheba Allen, was your half-aunt? A. I never saw her.

Q. Or Mrs. Foster or Mrs. Jaeger?

A. Mrs. Jaeger and Mrs. Foster, I know them because I go to their houses.

Q. Did you know that they are your half-aunts?

A. Only through Mrs. Jaeger; she has studied the relationship.

Q. It is quite a large home in Kalihi?

A. I heard the other day it was half an acre or about.

Q. Judging from your own observation there, and of other homes, is it a big home or a small home?

A. It is a nice place; I could not say a very big home; it is a comfortable home for anyone to live in.

Q. How many children has Henry? A. Three.

Q. At the time you were living there were your brothers living there too, Henry and Charles?

A. Yes.

Q. How long were you living there at that time?

A. Six weeks.

Q. Were Henry and Charley working at that time?

A. No.

Q. And your mother supported the whole family?

A. Yes, but I found work in six weeks there, and I worked three weeks out of those six weeks, that is, the end of the six weeks.

(Testimony of George De La Nux.)

Q. Who provides the food, and servants?

A. My mother.

Q. Did you think at the time that your mother was well off?   A. I did not know. [319]

Q. You did not know? .

A. Of course not—no, of course, I didn't go into any details.

Q. Well, judging from the way she was running her home?

A. I didn't see nothing fancy there. We had poi, bread and coffee everything plain.

Q. And servants?

A. This yard boy was the only one I remember of.

Mr. WITHINGTON.—I have asked about several stocks. Do you know anything about her having Waialua or any other stocks?   A. No.

Q. Or bonds?   A. No.

Q. Now, the fact is, isn't it, that you didn't know that she had anything excepting the homestead?

A. Excepting the homestead, what I had been told or heard, that is, I heard she had property in Hanalei Kauai, where I don't know.

Q. That I understood you to say you heard afterwards?   A. Yes.

Q. But after that—before that you didn't know anything about any property except the homestead?

A. No, that is all news to me.

Q. Now, you say she asked you and you promised that you wouldn't record the deed until her death; is that correct?

A. Do you mean for me to keep it quiet?

(Testimony of George De La Nux.)

Q. That you wouldn't record the deed, keep it quiet until her death? A. Yes.

Q. But you did record it? A. Yes.

Q. Without any notice to her? [320] A. Yes.

Q. Why did you do that?

A. Because she told me that she had called a lawyer, or seen lawyers and told her that she could change that deed.

Q. Now let us see; that was the reason why you recorded the deed, because she had told you that she had seen lawyers who told her she could change that deed? A. Yes.

Q. Now, when was that with reference to recording the deed?

A. That time I was in Halawa; I could not state just when.

Q. How long was it before you recorded the deed that she told you that?

A. I think it was shortly after, between 1907 and 1908, somewhere about there; that is the only thing that I can remember, when I was shifted over to Halawa.

Q. Why did you wait two or three years to record it?

A. Because there was no trouble between us at the time.

Q. What was the trouble up to that time?

A. No trouble, excepting as I have stated before, when she came to my house when I was living at Halawa, this boy Georgie would run away from her, never took notice of my grandmother.



(Testimony of George De La Nux.)

Q. That conversation you are referring to, the time she told you about the lawyer, that was in 1907 or 8; now, why did you wait two or three years before recording it?

A. Well, this trouble didn't all happen in one day. I am just saying after I went to Halawa she had come to me, had visited me three different, or four times and in those three or four times, four visits were not between 1907 and 1908, but in a stretch up to the time I went up to have it recorded. When the thing was recorded I don't know now.

The COURT.—July, 1910. [321]

WITNESS.—She had visited me, I think, to the best of my memory, only three or four times, when I was living at Halawa.

The COURT.—Between 1907 and 1910?

A. Yes; that is when I shifted to Halawa. In these three or four different times she visited me there this boy was always very shy of the grandmother—George, always run away, of course. I was at work all this time, you see. When I come home, she would say, "I don't like this boy," Every time she come around he would run away, and she spoke about it, spoke about wanting to put it over all on to the smaller boy because he took more of a fancy to the grandmother; being smaller he didn't know any better.

12 o'clock.

The COURT.—This matter will be continued until Monday morning at 9 o'clock. [322]

(Testimony of George De La Nux.)

Monday, June 23, 1919, 9 o'clock, A. M.

Continued cross-examination of GEORGE DE LA NUX.

Mr. WITHINGTON.—Mr. De La Nux, when your wife called you in and you found Judge Larnach, Mr. Breckons, and your mother besides your wife and Mrs. Richards there on this occasion in 1916, were you surprised to see them?

A. Yes, I was, I didn't know they were coming.

Q. Who of them did you know?

A. Well, I know them all, at least seen them all.

Q. Had you had anything to do with any of them?

A. No.

Q. Had you ever been to Mrs. Breckon's office?

A. Yes, once.

Q. With reference to what?

A. Well, with reference to this deed, this suit.

Q. When was that?

A. I don't know; I don't remember,

Q. That was before this case though?

A. Oh, yes.

Q. Shortly before or long before?

A. Do you mean before this case?

Q. No, before this meeting down at Aiea?

A. I went once to Breckon's office.

Q. You went once to Breckon's      A. Yes.

Q. When?

A. Oh, long before that. [323]

Q. How long would you say?

A. I couldn't say at all.

Q. Was it a matter of months?

(Testimony of George De La Nux.)

A. I guess it was, but how long I can't say.

Q. Was it a year? You have spoken about a letter a year before? A. I can't say.

Q. And you went there about this matter?

A. Yes.

Q. Had you seen Judge Larnach before?

A. The same day.

Q. The same day you saw Judge Larnach where?

A. At his office.

Q. Did you talk with him about this affair, with Judge Larnach? A. I did.

Q. (Hands witness a letter.) Showing you a letter dated, Aiea, January 26, 1916, and ask you if that is your handwriting, and your signature. A. Yes.

Mr. WITHINGTON.—We offer this letter in evidence.

(Received and marked Plaintiff's Exhibit "I.")

(Reads:) "1-26-16." That means January 26, 1916? A. I guess so, yes.

Q. Did you—you say you sent it for your mother. Did you, *did you*, read your mother the letter?

A. That I don't know; I don't remember.

Q. (Hands witness another letter.) I will show you a letter of the same day, and I will ask you if that is your letter. A. Yes, I wrote that.

Mr. WITHINGTON.—We offer this letter in evidence. [324]

(Received and marked Plaintiff's Exhibit "J.")

(Reads.)

Q. Now, did Mr. Breckons write you a letter two or three days after this?

(Testimony of George De La Nux.)

A. It was before that, if I remember.

Q. You think it was before that?

A. Yes, before that; that how I came to write this letter, the first I knew of this lawsuit.

Q. I will ask you whether this letter which is, showing you a letter purporting to be dated, February 1st, 1916, is a letter in your handwriting and is your letter. A. Yes.

MR. WITHINGTON.—We offer this letter in evidence and ask that it be received and marked.

(Received and marked Plaintiff's Exhibit "K.")

(Reads.)

Q. Does that letter refresh your recollection to the fact that you received a letter from Mr. Breckons about coming down to the platform between these letter? A. Yes.

Q. Now, have you that letter, Mr. Breckon's letter?

A. No.

Q. But it was a letter making, asking if it would be agreeable for your mother and Mr. Larnach to come down there?

A. I know I got a letter, but what was in that letter to-day I don't know, because I didn't keep the letters.

Q. Does that refresh your recollection?

A. Yes, but what was stated in the letter I don't know.

Q. You say here you will be glad to see them down at the plantation? A. Yes. [325]

Q. Where did you get the information that they were coming down?

A. I got a letter from Mr. Breckons.

(Testimony of George De La Nux.)

Q. That letter you have no doubt was dated two days after your letter dated the 28th?

A. Yes, but when they were coming down they didn't say.

Q. You didn't know when they were coming down?

A. Yes.

Q. What did you mean then when you said you were surprised?

A. In this way, I didn't know they were coming until I saw them there, that I didn't know the particular day that they would come.

Q. That is all you meant?     A. Yes.

Q. Now, you say that something was said about a trust deed?     A. Trust deed?

Q. Wasn't that the expression?

A. What is that?

Q. Oh, I may be wrong about that, this trust deed. You say that Mr. Breckons stated what your mother wanted done, "To give the Kalhi home to me, to my two children, and divide up the rest of the property amongst the boys. That is the meaning, I think, myself and my two brothers, and I didn't agree to anything like that."

Q. Did you so testify?

A. Testified when?

Q. Last week when you were on the stand on direct examination.     A. Please read that over again.

Q. "He," meaning Breckons, "then started to tell me about what was to be done, that is, what my mother wanted to have [326] done."

"Question: What was said?     Answer: To give the

(Testimony of George De La Nux.)

Kalihi property to me, to my two children, and divide up the prest of the property amongst the boys. That is the meaning, I think, myself and my two brothers, and I didn't agree to anything like that."

Q. Now, did you so testify?

A. That is what Breckons told me.

Q. Well, I will ask you if you testified the other day to this effect that Breckons did tell you that?

A. Yes, yes.

Q. How was it to be divided up—was there anything said about that?

A. Nothing at all, because I didn't know what property my mother had.

Q. Wasn't—didn't Mr. Breckons propose that it should be divided equally?

A. He proposed that, but what property is I don't know.

Q. I didn't ask you that, if you knew the property, but the property he proposed to have divided equally?

A. Yes, what he said.

Q. Did he say anything about how it was to be taken care of, turned over to you three boys at once?

A. Didn't say that.

Q. Sure about that?      A. Sure about that.

Q. Didn't he say that it was to be turned over to somebody in trust, his proposition, and your mother's proposition was to turn it over to somebody else in trust for her lifetime, then to be divided equally amongst you three boys?

A. I didn't hear anything like that. [327]

Q. When you parted there was no plan, I under-

(Testimony of George De La Nux.)

stood you to say, nothing further to be done?

A. No.

Q. Did you receive any papers from Mr. Breckons or Judge Larnach after that? A. I don't know.

Q. Haven't you got a draft of the complaint that was sent to you?

A. No, what papers I had I had turned over to Mr. Andrews.

Mr. WITHINGTON.—I would like to have it produced, the preliminary draft of the complaint, a letter dated February 26th, 1916?

(Mr. Andrews produces complaint.)

Mr. ANDREWS.—I haven't any letter.

Mr. WITHINGTON.—Did you receive from Mr. Breckons a letter, original letter, a carbon copy of which I showed to you?

A. I remember something like that.

Q. Can you say whether this is a copy of the letter—have you any doubt about that?

A. Well, I know something of this here, but this conversation part of it, I don't know nothing about that, these few lines here.

Q. I didn't ask you whether you knew about it, but you got the letter containing that?

A. That I can't say.

Q. What did you do with the letter?

A. If I had one, as I say, all papers what I had I turned over to Mr. Andrews; that is the best I know.

Q. You say you did receive a letter; did you receive this paper which Mr. Andrews has produced, with the letter which you refer to from Mr. Breckons?

(Testimony of George De La Nux.)

A. Yes, I remember this (referring to the complaint). [328]

Q. And that was received with the letter that it referred to?

A. I might have forgotten; I can't say.

Q. But you did receive it at the same time?

A. Yes, I did.

Q. About the date? A. About this; yes.

Mr. WITHINGTON.—We will offer this letter a little later when we prove the letter.

Q. Now, at this conversation at Aiea did your mother say to you, or did she say this in substance, "Sonny, you know mother didn't intend to give all the property, only intended to give the homestead," and further, "Sonny, you know mother was jiggling when she signed that deed," and you replied, "If mother says that that settles it," or that settled it, or that is all there is to it. Did any conversation of that kind take place?

A. Yes, my mother said that.

Q. You said if she said so that settled it?

A. Well, that was her business.

Mr. WITHINGTON.—We will offer through Judge Larnach the letter that we have referred to, together with the complaint that we has identified, otherwise than that we have finished.

That is all.

Mr. ANDREWS.—That is all. We rest, if the Court please.

(Here follows testimony by Mrs. Moses.) [329]



**Testimony of Mrs. Manuel Moses, for Petitioner.**

Direct examination of Mrs. MANUEL MOSES, called for petitioner, sworn, testified as follows:

By Mr. WITHINGTON.—Your name, please?

A. Mrs. Manuel Moses.

Q. Where do you live, Mrs. Moses?

A. Up Kalihi.

Q. Right here in Honolulu?     A. Yes.

Q. How many years have you lived up Kalihi?

A. Nineteen years.

Q. Do you know Mrs. Houghtailing?     A. Yes.

Q. Do you know Mr. George De La Nux, who sits by his counsel?     A. Yes.

Q. Do you know this lady (pointing to Mrs. Lahapa De La Nux)?     A. Yes.

Q. How long have you known these folks that I have indicated to you, Mrs. Moses—Mrs. Houghtailing, Mrs. Lahapa De La Nux, George De La Nux—how many years have you known them?

A. Mrs. Houghtailing, I know her about nineteen years now.

Q. How long Mr. George De La Nux?

A. About ten years ago.

Q. How long Mrs. Lahapa De La Nux?

A. Just the same.

Q. Now, did you ever live anywhere near Mrs. Houghtailing in Kalihi?     A. Yes.

Q. When?     A. I lived close by her. [330]

The COURT.—When?     A. 1900.

Mr. LARNACH.—Until what date, or day?

A. 1900 I married my husband, and I stayed right

(Testimony of Mrs. Manuel Moses.)

makai of Mrs. Houghtailing.

Q. How close to Mrs. Houghtailing's house?

A. Until about fifty or sixty feet.

Q. On the same street? A. Yes.

Q. Right next to Mrs. Houghtailing's yard?

A. Right makai.

Q. Did you leave that place that you stated you lived since 1900?

A. From 1900 to 1913, and then I moved out.

Q. Now, did you see George De La Nux and Mrs. Lahapa De La Nux any time at Mrs. Houghtailing's house during that time?

A. Yes, I saw them there.

Q. Did you at any time hear any big row in which Mrs. Lahapa De La Nux and George De La Nux took any part in?

A. Yes, they had a row with Mrs. Houghtailing.

Q. Will you please tell us, tell his Honor, just what you saw, just what you heard, please?

A. About ten years ago, at Mrs. Houghtailing's house, at night, about seven o'clock at night, there is a big fight in Mrs. Houghtailing's house, right in the house, so I heard Mrs. Houghtailing's voice, talking and noisy in the house, so I come from my house, right to Mrs. Houghtailing's place, and I saw Mrs. De La Nux on the ground, on the grass.

Q. Mrs. Lahapa De La Nux?

A. She was drunk, she couldn't hardly get up, Mrs. Houghtailing was standing out on the verandah and calling Mrs. De La Nux, "Wahine hokana." Mrs. Houghtailing was calling [331] "wahine hokana,"

(Testimony of Mrs. Manuel Moses.)

because I was right there and heard it.

(The Court, the witness and the Interpreter talking in Hawaiian.)

INTERPRETER.—Then Mrs. De La Nux said, “I don’t know what this is all about.”

The COURT.—(Interpreting.) “I don’t know why I am treated this way.”

Mr. LARNACH.—Who was saying this?

A. Mrs. De La Nux.

Q. Was Mrs. De La Nux standing up or sitting down? A. Sitting down on the grass.

Q. How was she dressed, if she was dressed?

A. Only her chemise, calico chemise.

Q. How do you know?

A. Because I went right up to her.

Q. What did you say to her or anyone else?

A. I went there, I went with her because I was the one who put on her clothes; she didn’t listen to me, but when I tried to get her in the house, she went out on the road, right on the road, and I went to get her husband, George De La Nux.

Q. What did he do?

A. Came right out to where his wife was on the road and grabbed her by the hand and pulled her in the house.

Q. Was she sober or otherwise?

A. Mrs. De La Nux was drunk and Mrs. Houghtailing was drunk.

Q. Was that the only time that you saw George there when his mother was drinking?

A. I was over there that night they were drinking.

(Testimony of Mrs. Manuel Moses.)

Q. Any other time that you saw Mrs. Houghtailing drinking [332] when George was there?

A. I see Mrs. Houghtailing drinking; after that George was there and the wife.

Q. Now, you left in 1913—left this house next to Mrs. Houghtailing's in 1913? A. Yes.

Q. How long before you left do you think it was did this row occur—one year, one week, how long, to the best of your recollection—do you understand the question?

A. I think it is about three years.

That is all.

Cross-examination.

Mr. ANDREWS.—What makes you remember that it was three years before you left that this happened?

The COURT.—How do you remember that?

A. About the year 1910.

Q. What makes you remember that it was the year 1910?

A. I am not sure, but that is the time that I remember.

Q. Why do you think it was 1910?

A. That is the time that she (the witness) judges it was.

Q. Is there any other thing that makes you fix the year as the year 1910, or has anybody told you to say 1910?

A. She remembers it was 1910 on account of her brother-in-law dying that year ago.

Q. How long did you say you knew Mr. De La Nux

(Testimony of Mrs. Manuel Moses.)

and Mrs. De La Nux?     A. About ten years.

Q. You had been introduced to them, talk to them, for ten years?     [333]

A. I was acquainted with them at that time.

Q. How many times did you talk to them, visit them?

A. I didn't use to talk to them, only that night. I have never talked to them except that night.

Q. Have you ever been introduced to them?

A. No.

Q. Then when you say you have known them ten years, you have only seen them?     A. Yes.

Q. How did you know who they were?

A. Because I heard Mrs. De La Nux calling them George and the wife—Mrs. Houghtailing, excuse me.

Q. How did you, would you hear that?

A. Mrs. Houghtailing always calling out sometimes from her house.

Q. You could hear it from your house?

A. Yes, come right up there, around there, and stay.

**Testimony of Henry De La Nux, for Petitioner  
(Recalled).**

HENRY DE LA NUX, recalled on behalf of the petitioner, testified as follows:

Mr. LARNACH.—Now, you heard your brother George testifying here, that when he, your brother George, first came to your mother's house your mother started to talk about property, that she wanted to turn all her property over to your brother,

(Testimony of Henry De La Nux.)

and that she said those things in the presence of my brothers, Mr. George testified, meaning yourself and your brother Charley; now did any such conversation occur? A. Not in my presence. [334]

Q. In your presence? A. No.

Q. Now, you heard Mrs. Kaae testify on the witness-stand, in which she denied there was any trouble at Moanalua at your house?

A. Yes, I heard her say that.

Q. Will you please tell us if there was such trouble, if there was any?

Mr. ANDREWS.—We object to that as immaterial matter, brought out on cross-examination.

Mr. LARNACH.—We will rest right there; we will not press it, your Honor.

**Testimony of Charley De La Nux, for Petitioner  
(Recalled).**

CHARLEY DE LA NUX, recalled on behalf of petitioner, testified as follows:

Mr. LARNACH.—You remember at any time your mother talking about giving her property to George?

A. I do not.

Q. Talking about that in your presence?

A. I do not.

Q. Did any such conversation ever take place in your presence? A. It did not.

That is all.

No cross-examination.

**Testimony of Judge A. D. Larnach, for Petitioner.**

Direct examination of Judge A. D. LARNACH, called for petitioner, sworn, testified as follows:  
[335]

Mr. WITHINGTON.—You are one of the attorneys in this action?

A. I am. I have been engaged by Mrs. Houghtailing as her attorney since January, 1916.

Q. Did you see the defendant George De La Nux at your office at any time? A. Yes.

Q. When was it?

A. In 1916, in January, Mr. De La Nux came to my office in response to a letter which I wrote to him. You haven't got that letter, Mr. Andrews?

Mr. ANDREWS.—No.

Mr. WITHINGTON.—You haven't a copy of that letter?

A. No, I have been unable to find it.

Q. What took place at this visit?

A. He visited at my office and I explained to Mr. De La Nux that I was engaged as his mother's attorney, and explained his mother's views in drawing up the deed.

Q. What did you say about that?

A. The exact words I don't remember, but I explained to him that his mother denied having intended to convey in the deed, which I, a copy of which I had—

Mr. ANDREWS.—If that is for impeachment, I object.

Mr. WITHINGTON.—No.

(Testimony of Judge A. D. Larnach.)

Mr. ANDREWS.—We object to this conversation as irrelevant and not proper rebuttal.

Mr. WITHINGTON.—We are offering it for the purpose of contradicting the witness in saying that his mother did know all about it, that the deed was read to her, that she frequently spoke of all her property.

Mr. ANDREWS.—Then it can only be for purpose of impeachment; [336] there was no foundation laid for any such statement.

Objection sustained.

Mr. WITHINGTON.—I am not very particular about this matter.

Q. What was the next you heard from George?

A. Well, after a visit to my office we together made a visit on the same day to Mr. Breckons' office, where the situation was again gone into.

Q. I don't care about that, but I show you a letter which is marked Plaintiff's Exhibit "I" and ask you if you received that letter?

A. Yes, I received that letter from Mr. George De La Nux.

Q. Was that in consequence of any conversation which you had in your office?

A. Yes; we made an arrangement for Mr. George De La Nux to come up some days later when we could get Mrs. Houghtailing, we, meaning Mr. Breckons and I, and George De La Nux was, according to his letter to me, to write this letter to me.

Mr. WITHINGTON.—That was Plaintiff's Exhibit "F."



(Testimony of Judge A. D. Larnach.)

Q. I show you a letter which is marked Plaintiff's Exhibit "K" and ask you whether you have seen that before?     A. Yes.

Q. In consequence of it did you do anything, if so, what?

Mr. ANDREWS.—That we object to as not proper rebuttal.

Mr. WITHINGTON.—This is the interview down at Aiea; this is preliminary.

Mr. ANDREWS.—To contradict him that he knew you were coming down?

WITNESS.—Yes; the letter was sent to George De La Nux in response to a letter which I had received wherein he stated he was unable to come up and an arrangement was made to go down, that I know, because I saw the letter, I don't remember, [337] the contents, and this letter was addressed to Mr. Breckons, and I saw the reply.

Q. You saw the reply to the letter which you say arranged to come down to Aiea?     A. Yes.

Q. Did you go down?     A. We did.

Q. Who went?

A. Mr. Breckons, Mrs. Manuel Richards, Mrs. Charles De La Nux, Mrs. Houghtailing and myself.

Q. Will you state what took place there, what was said and done?

Mr. ANDREWS.—That we object to as not rebuttal; it is a part of their case in chief; they can't hold back half of their witnesses and then put it on in rebuttal.

(Testimony of Judge A. D. Larnach.)

Mr. WITHINGTON.—I don't think that is an accurate statement of the situation in this case. We put on evidence in chief, and the defendant put on witnesses who contradicted our witnesses; in addition they stated certain other things that had taken place, on cross-examination the witness denied every material fact, for instance, denied that an arrangement was made to—for an amicable settlement of the matter, in pursuance of which the letter of February 26th was written and the letter of —, and the bill to be filed was sent down. Now, we have the right to contradict what was said, alleged to have been said there which were not brought out in direct examination, and no attempt made to bring them out, witnesses were not asked whether these things were said—and I refer to what I would call the cross-examination of Mrs. Houghtailing by her son. Now, we certainly have the [338] right to go into these matters and contradict.

Mr. ANDREWS.—If there was anything that was not in the case—it was part of their case in chief, witnesses were put on the stand stating exactly what happened down there, then Mr. George De La Nux comes and his wife, come on and state what they remember happened, then holding back some of their witnesses and again starting in to testify what happened down there—

Mr. WITHINGTON.—If it is objected to I will ask the questions in a little different way. I will withdraw the question.

(Testimony of Judge A. D. Larnach.)

Q. Now, after you got there was there any general protest?

Mr. ANDREWS.—That we object to as not rebuttal; both sides have testified to that.

Objection sustained.

Mr. WITHINGTON.—You heard Mr. George De La Nux's testimony on the stand, did you not, Judge Larnach? A. Yes.

Q. Did anything like this take place?

“Well, then, I started to ask my mother questions, there were three questions I think I asked her, the first question was, ‘Did you not make out the papers the way they are to-day?’ and she started to cry, and I says, ‘Now, mother, you came here for business purposes and not to cry,’ I says, ‘Brace up,’ and I got up off my chair and went over to her to humor her along, that is, not to cry. I went and sat down again and she braced up and she says, ‘Well, you know, Sonny, I am, Mama is something like that, is a drinking woman, and I didn't intend to give you everything; it was only [339] the home.’ So I came with the second question, asked her if I had forced her, if I was the one that had had made the papers out. The third question—‘What did she say to that?’

“She didn't answer. The third question I says, ‘Ain't it so, the way your two sons have been treating you all these years that you made out the paper the way it is to-day?’ I followed it right up, ‘Ain't it so they used to call you a

(Testimony of Judge A. D. Larnach.)

'son-of-a-bitch,' call you a 'bastard,' used to call you a 'whore,' I says, 'Ain't that the reason you made that paper out the way it is to-day?' and I got worked up while I was saying this, saying those few words. Excuse me, excuse my language, your Honor. That is the way it ended up.

"What did she say to that?"

"She said, 'Yes.'"

Q. Did that or anything of that sort take place?

Mr. ANDREWS.—We object to that, if the Court please, as not rebuttal.

The COURT.—They can't anticipate that question at all. I don't see how, if it was all made up—they have a right to put witnesses on in rebuttal.

Objection overruled.

WITNESS.—Now, it is difficult to say that nothing like that happened, what really happened, if I may state, if I am permitted to state was thus, it is impossible—

Mr. ANDREWS.—We certainly object to Mr. Larnach giving his version of what happened there.

Mr. WITHINGTON.—Only give that part of it which relates to these particular matters he referred to, where he says [340] he questions his mother about how the thing was done, and what she had said, in reference to it.

A. The only thing that Mr. George De La Nux said was this—

Mr. ANDREWS.—We object to that. I would

(Testimony of Judge A. D. Larnach.)

ask whether the question is capable of being answered yes or no.

WITNESS.—No, that is not—

Mr. ANDREWS.—Why not?

The COURT.—Whether or not his statement is true or not.

WITNESS.—Portions of it, for instance, Mrs. Houghtailing said that, to her son, “You know, Sonny, mother was jiggling when she signed that deed.” That corresponds to a small extent of what was said, she further said, “Mother didn’t intend to give anything other than the homestead”; that corresponds to a slight degree with what was said, so that I can’t say that none of it was said, but George De La Nux didn’t cross-question his mother. Mr. George De La Nux, his behavior right through was—

Mr. ANDREWS.—We object to that as not rebuttal.

Mr. WITHINGTON.—Do you mean to say that he didn’t ask any of these questions that I have read to you?

A. He said, “It is up to you, Mother.” After Mr. Breckons had made his statement, “It is up to you, Mother, whatever mother wishes it is all right.”

Q. Well, did he ask her these three questions?

A. He didn’t ask her if she had been called names; she did cry, that part of it is correct; he didn’t get up and go over and pat her shoulder, anything like that; didn’t tell her that she had come down there

(Testimony of Judge A. D. Larnach.)

for business purposes; I think that part of his statement that he is [341] mistaken.

Q. I am asking whether he asked the three questions which he says he asked her, or any of them?

A. Give me the first question.

Q. "Did you not make out the papers the way they are to-day?"

A. He didn't ask her that. Mr. Breckons asked her that.

Q. Did he ask her if he had forced her, if I was the one that had her make the papers out?

A. No, he did not.

Q. Did he ask her, "Ain't it so, the way your two sons have been treating you all these years that you made out the papers the way it is to-day"?

A. He did not.

Q. Or anything of that kind?

A. No, he didn't cross-question her that way.

Q. And you say he didn't say, "Ain't it so they used to call you a 'son-of-a-bitch,' call you a 'bastard,' used to call you a 'whore' "?

A. He did not.

Q. Or anything of that sort?      A. No.

Q. Now, when you went away was there any arrangement made as to what would be done?

A. Yes.

Q. State what it was.

A. Mr. Breckons explained to Mr. George De La Nux that he, George, could not do anything without permission of the court, that it would be necessary for him to be appointed guardian, or someone ap-

(Testimony of Judge A. D. Larnach.)

pointed guardian, and we suggested George there, and bring a proceeding in court to have this suit corrected. Mr. Breckons told Mr. George De La Nux [342] that papers would be sent down for his information with our suggestion in the matter. Such a paper was sent down, and I recognize that paper that Mr. George De La Nux received.

Q. Mr. George De La Nux testified that he did receive a letter about February 26th, 1916?

A. Yes.

Q. Can you state whether that is a copy of the letter which was sent? A. It was.

Q. Who was it sent by—signed by?

A. That I am not sure. I think it was signed by Mr. Breckons, or Mr. Breckons and myself; the letter was written in my office, that is a carbon copy; it has been in my office ever since.

Q. Is this a copy of the complaint referred to?

A. Yes; that is a copy of the complaint referred to, which copy you will notice goes on the theory that a mistake was made, which arrangement or suggestion had come from Mr. Breckons, which suggestion Mr. George De La Nux had acquiesced in, rather than charge fraud we would call this a mistake.

Mr. WITHINGTON.—We offer the letter in evidence and ask that it be marked in order.

Mr. ANDREWS.—We object to it as being irrelevant, incompetent and immaterial, nothing to do with the question as to what happened in 1905, even if that is right that he agreed to this wouldn't—simply a matter of settlement of property rights.

(Testimony of Mrs. Lahapa De La Nux.)

The COURT.—The carbon copy of the letter will be received and marked Plaintiff's Exhibit "L."  
[343]

Mr. WITHINGTON.—We offer the bill.

Mr. ANDREWS.—We make the same objection, not having been agreed to by Mr. George De La Nux or signed by him or any action taken on it, not being binding in any way, not proper rebuttal.

Objection overruled.

The COURT.—The document may be received and marked Plaintiff's Exhibit "M."

Mr. WITHINGTON.—I think that is all.

Mr. ANDREWS.—No questions. That is all.

#### RESPONDENTS' REBUTTAL.

##### **Testimony of Mrs. Lahapa De La Nux, for Respondents (Recalled).**

Mrs. LAHAPA DE LA NUX, recalled by respondents on their surrebuttal.

By Mr. ANDREWS.—Now, you try and speak English with me. You saw that witnesses Mrs. Moses on the witness-stand to-day? A. Yes.

Q. Did you ever see that woman before?

A. No.

Q. Do you know who she is? A. No.

Q. You heard her tell about your being in your chemise, she helping you up; did that ever happen?

A. No, I never did any such thing.

Q. Were you ever drunk?

A. No, I am not a drinking woman. [344]

Mr. ANDREWS.—That is all.

Mr. WITHINGTON.—That is all.



**Testimony of George De La Nux, for Respondents  
(Recalled).**

GEORGE DE LA NUX, recalled, respondents' surrebuttal.

By Mr. ANDREWS.—You saw that Mrs. Moses on the stand?

A. Yes.

Q. Said she had known you for ten years?

A. Yes.

Q. Did you ever see her before?

A. Not until this morning; don't remember ever seeing the person.

Q. You heard her make the statement of her helping your wife into the house; do you remember any such occasion? A. No.

Mr. WITHINGTON.—This matter was both gone into on direct.

The COURT.—She said she knew of that.

Mr. ANDREWS.—Was she present on any such occasion or time when you helped her into the house—was she present when you helped her, helped your wife, who was in her chemise, into Mrs. Houghtailing's house?

A. Never saw the woman until this morning.

Mr. ANDREWS.—That is all.

That is our case. We are willing to submit it without argument, your Honor.

The COURT.—The Court will take the matter under advisement.

**REPORTER'S CERTIFICATE.**

I HEREBY CERTIFY that the foregoing is a

true and accurate transcript of my notes taken in the above-entitled cause, together with all objections by counsel, rulings by the Court, and exceptions thereto.

GILLSON D. BELL,

Official Court Reporter.

Honolulu, T. H., September 5th, 1919.

Filed at 2 o'clock P. M. Sept. 15, 1919. B. N. Kahalepuna, Clerk. [345]

Filed at 2 o'clock P. M. Sept. 15, 1919. B. N. Kahalepuna, Clerk. [346]

Filed at 2 o'clock P. M. Sept. 15, 1919. B. N. Kahalepuna, Clerk. [347]

---

**Plaintiff's Exhibit "F."**

KNOW ALL MEN BY THESE PRESENTS: THAT I, REBECCA HOUGHTAILING (nee MRS. P. C. A. DE LA NUX), of Honolulu, Island of Oahu, Territory of Hawaii, for and in consideration of My Love and Affection for my Grand Sons GEORGE DE LA NUX, JR., and DANIEL DE LA NUX, and in further consideration of the sum of One Dollar (\$1.00) to me in hand paid by my said Grand Sons GEORGE DE LA NUX and DANIEL DE LA NUX, the receipt whereof is hereby acknowledged, do hereby bargain, grant, sell, Transfer and Convey unto my said Grand Sons GEORGE DE LA NUX and DANIEL DE LA NUX, all and singular that certain piece or parcel of Land situate on Kamehameha IV Road, Kalihi, Honolulu, Island of Oahu, Territory of Hawaii, and being the same now occupied by me as my Home, together with the improvements thereon.

And also all and singular My Real and Personal property by me possessed and wheresoever situate.

TO HAVE AND TO HOLD the same unto my said Grand Sons GEORGE DE LA NUX and DANIEL DE LA NUX, their heirs and assigns, together with all and singular the rights, privileges, rents and income thereof, Tenements, Hereditaments and Appurtenances Forever, Reserving however, unto me, the said REBECCA HOUGHTAILING, a Life Estate therein.

IN WITNESS WHEREOF, I, the said REBECCA HOUGHTAILING, have hereunto set my hand and seal this 10th day of June, A. D. 1905.

REBECCA HOUGHTAILING.

In presence of:

WILLIAM SAVIDGE.

Territory of Hawaii,  
County of Oahu,—ss.

On this 8th day of November, A. D. 1905, personally appeared before me Rebecca Houghtailing (W.) known to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

[Notarial Seal]                      WILLIAM SAVIDGE,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

(\$2.00 Stamps.) [348]

[Endorsements]: E. No. 2090. Plaintiff's Exhibit  
 "F." Filed June 16, 1919. Claus L. Roberts, Clerk.

4170

---

G. F. De La Nux 9:18

Indexed.

Territory of Hawaii,

Office of the Registrar of Conveyances.

Received for record this 2d day of July, A. D. 1910,  
 at 9:18 o'clock A. M., and recorded in Liber 328, on  
 pages 476-477, and compared.

CHAS. H. MERRIAM,

Registrar of Conveyances.

By \_\_\_\_\_,

Deputy Registrar.

Recording Fee \$2.—Pd.

Pd. 2/2.

No. 1220. Rec'd and Filed in the Supreme Court  
 Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker,  
 Jr., Assistant Clerk. [349]

---

**Plaintiff's Exhibit "I."**

Aiea, 1/26/16.

Mr. Larnack.

Dear Sir:

On my return home to the plantation I have  
 thought over the matter very carefully and from  
 what I can see coming ahead in the line of my work  
 I wish to state that I will not be able to go up Friday  
 afternoon. We have installed a lot of new sugar  
 machinery and need considerable attention yet.

Talking over my mother's affairs I think I will have no more to say but keep quiet as my mother has employed you as attorney without saying anything to me about it. I don't think she should have been so hasty, but however let things go as she wishes, it will come all out in the end. So with these few lines to you and hope there will be a better understanding in the near future. I will keep quite and await the outcome I have sent for mother for a consultation I hope I will have the pleasure of meeting her.

I remain

Yours truly

GEO. F. DELANUX. [350]

[Endorsements]: "I." E. No. 2090. Plaintiff's Exhibit "I." Filed Jun. 23, '19. Claus L. Roberts, Clerk.

No. 1220. Rec'd and Filed in the Supreme Court Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker, Jr., Assistant Clerk. [351]

---

**Plaintiff's Exhibit "J."**

Aiea, 1/26/16

Dear Mother

I am dropping you a few lines, asking of your kindness to answer this letter or come in person. I have wrote to you a few weeks ago but I have received no answer, if I had the time I would go up and see you. We have installed a lot of new machinery this year and needs considerable attention for some time to come. I don't think I have done anything out of the way that is keeping you away from me. I think I have done my duty, I do not

know of a single time that I have abused you if so I would like to know about it. It seems to me that there is something in the wind if there is don't keep it to yourself because it will be found out sooner or later. If you have any grievance's why not some straight forward with it.

Should it be your wishes to throw me down at this time for any reason unknown to me well mother it is up to you. However if you don't care to come down, write a few lines. I am not writing to you to Homalimali you in any way shape or form, I wish to [352] to make it plain.

As I say there is something in the wind, I hope I can see you personally to find out were the friction is. Don't be afraid to come after you have read this letter over carefully. I would like to know why this long silence has been between us. I think I have an idea were it is all coming from. Now Mother should you see your way clear come down, don't be afraid your welcomed to my home and whatever I have at any time.

The machine bearing this note is at your disposal, and will also conduct you home safely at any time you wish. May I have the opportunity of meeting you.

I am

Your Son.

GEORGE F. DELANUX

Aiea Box 72.

“J.” E. No. 2090. Plaintiff's Exhibit “J.”  
Filed Jun. 23, '19. Claus L. Roberts, Clerk.

No. 1220. Rec'd and Filed in the Supreme Court  
Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker,  
Jr., Assistant Clerk. [353]

---

**Plaintiff's Exhibit "K."**

Feb 1st 1916

Mr. Breckons

Dear Sir

Your letter of the 1/28th instance I have received and contents noted. I shall welcome my mother and Mr. Larnack to visit me at the Plantation as I have not the opportunity for the present to go up to town. I am thanking you for the extended courtesy you have given me.

With this short letter I will close hoping I shall have the pleasure of meeting my mother and Mr. Larnack here at Aiea at my home.

I am

Yours truly,

GEORGE F. DELANUX.

Houghtailing. "K." E. No. 2090. Plaintiff's Exhibit "K." Filed Jun. 23, '19. Claus L. Roberts, Clerk.

No. 1220. Rec'd and Filed in the Supreme Court  
Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker,  
Jr., Assistant Clerk. [354]

**Plaintiff's Exhibit "L."**

E. No. 2090. Plaintiff's Exhibit "L." Filed  
Jun. 23, '19. Claus L. Roberts, Clerk.

Honolulu, T. H., February 26th, 1916.

Mr. George De La Nux,  
Aiea, Oahu,  
T. H.

Dear Mr. De La Nux:

Enclosed you will find a copy of a Bill of Complaint which we propose to file in the Circuit Court, asking for a reformation of the deed which we have heretofore discussed; also asking that you be appointed by the Court as the guardian *ad litem* for your two sons. The facts contained in this complaint have been gathered by us from the conversations with your mother and yourself.

Mr. Larnach, however, is uncertain as to whether or not you were present when the deed was executed. We would like to hear from you whether you were present when the deed was executed. We would also wish you to carefully read over the Bill of Complaint, and any facts that are not correct inform us of. These facts we expect to prove by your mother and yourself.

Asking you to return the Complaint at your earliest opportunity,

Very truly yours,

---

No. 1220. Rec'd and Filed in the Supreme Court  
Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker,  
Jr., Assistant Clerk. [355]



**Plaintiff's Exhibit "M."**

In the Circuit Court of the First Judicial Circuit,  
Territory of Hawaii.

AT CHAMBERS—IN EQUITY.

BILL FOR REFORMATION OF DEED.

REBECCA HOUGHTAILING,

Plaintiff,

vs.

GEORGE DE LA NUX, Jr., and DANIEL DE LA  
NUX,

Defendants.

BILL OF COMPLAINT.

To the Honorable the Presiding Judge of the Circuit  
Court of the First Judicial Circuit, Territory of  
Hawaii, Sitting at Chambers, in Equity:

Your orator, Rebecca Houghtailing, the plaintiff  
above named, brings this her bill of complaint  
against the defendants above named, and thereupon  
your orator complains and alleges:

I.

That she has been all her lifetime a resident of the  
Territory of Hawaii, and is the owner of a very con-  
siderable amount of property, both real and per-  
sonal, situated and located within the Territory of  
Hawaii, and that included within the property thus  
owned by her is certain property known as her home-  
stead, which is situated and located on Kamehameha  
IV Road, in Kalihi, Honolulu, Island of Oahu, Ter-  
ritory of Hawaii. [356]

## II.

That she has a number of children and grandchildren residing within the Territory of Hawaii, two of the said grandchildren being the said defendants herein.

## III.

That, being desirous of vesting in the defendants herein the title to the homestead hereinbefore mentioned, reserving unto herself a life interest therein, your orator, in the year 1905, made known to her son, one George F. De La Nux, the father of the said defendants, her desire to so vest the said property, and that thereupon directions were given a Scrivener to draft the deed necessary to carry out said intention.

## IV.

That thereafter, and on the 10th day of June, A. D. 1905, there was presented to your orator for signature a deed, a copy of which is hereto attached, incorporated herein by reference, and marked Exhibit "A." That upon the presentation of said deed, your orator, in the presence of the father of said defendants, the said George F. De La Nux, executed the same. That at the execution of the same, both your orator and the said George F. De La Nux relied upon the accuracy of the Scrivener employed, and did not read the said deed, nor, until recently, discover that the said deed contained a provision by which was transferred to the defendants herein, not only the homestead in question, but likewise all of the other property, of every kind, character and description, both real and personal, owned by your orator at the

time of the execution of the said deed; that in and by said deed [357] your orator intended to convey to the defendants only the homestead, as hereinbefore set forth, reserving unto herself a life interest, and did not intend to convey to said defendants any property other than said homestead; that the insertion of the provision in said deed, conveying property other than said homestead, was due to the mistake of the scrivener who drew said deed, and also to the mutual mistake of plaintiff and the said George F. De La Nux.

V.

That thereafter, and upon discovery of said mistake, this plaintiff made demand of the said George F. De La Nux, that the said mistake be corrected, but that the said George F. De La Nux refused so to do, basing his refusal on the fact that the defendants herein were minors.

VI.

That the said defendants herein are minors, the said George De La Nux, Jr., being of the age of — years, and the said Daniel De La Nux being of the age of — years.

VII.

That the plaintiff herein has no adequate remedy at law.

IN CONSIDERATION WHEREOF, and inasmuch as your orator has no sufficient remedy at law, your orator prays as follows:

FIRST. That an order of the Court be entered, appointing some person to act as guardian *ad litem* for the said defendants, suggesting in this behalf

that the father of said defendants, to wit, the said George F. De La Nux, be appointed such guardian *ad litem*. [358]

SECOND. That the process of this Honorable Court may issue, according to law, to be served on the said guardian *ad litem*, requiring the said defendants, and each of them, to appear herein within the time by law provided, and answer the several allegations in this bill of complaint contained; answer under oath, however, being in that regard hereby expressly waived.

THIRD. That upon the final hearing herein, it may be decreed that the deed herein incorporated may be reformed by striking therefrom the words: “And also all and singular may real and personal property by me possessed and wheresoever situate.”

FOURTH. That your orator may have such other and further relief in the premises as to this Honorable Court may seem meet and proper, and which equity may require.

---

Plaintiff.

Territory of Hawaii,  
City and County of Honolulu,—ss.

Rebecca Houghtailing, being first duly sworn according to law, deposes and says that she is the plaintiff in the above-entitled cause; that she has read the above and foregoing bill of complaint, and knows the contents thereof, and that the allegations contained in said bill of complaint are true of her own knowledge.

---

Subscribed and sworn to before me, this — day  
of February, A. D. 1916.

---

Notary Public, First Judicial Circuit, Territory of  
Hawaii. [359]

EXHIBIT "A."

Know all men by these presents: That I, Rebecca Houghtailing (nee Mrs. P. C. A. De La Nux) of Honolulu, Island of Oahu, Territory of Hawaii, for and in consideration of my Love and Affection for my Grand Sons George De La Nux, Jr., and Daniel De La Nux, and in further consideration of the sum of One Dollar (\$1.00) to me in hand paid by my said Grand Sons, George De La Nux and Daniel De La Nux, the receipt whereof is hereby acknowledged, do hereby bargain, grant, sell Transfer and Convey unto my said Grand Sons George De La Nux and Daniel De La Nux, all and singular that certain piece or parcel of Land situate on Kamehameha IV Road, Kalihi, Honolulu, Island of Oahu, Territory of Hawaii, and being the same now occupied by me as my Home, together with the improvements thereon.

And also all and singular My Real and Personal property by me possessed and wheresoever situate.

To Have and to Hold the same unto my said Grand Sons George De La Nux and Daniel De La Nux, their heirs and assigns, together with all and singular the rights, privileges, rents and income thereof, Tenements, Hereditaments and Appurtenances Forever, Reserving however unto me, the said Rebecca Houghtailing, a Life Estate therein.

In Witness whereof I the said Rebecca Houghtailing have hereunto set my hand and seal this 10th day of June, A. D. 1905.

REBECCA HOUGHTAILING.

In presence of:

WILLIAM SAVIDGE. [360]

Territory of Hawaii,  
County of Oahu,—ss.

On this 8th day of November, A. D. 1905, personally appeared before me Rebecca Houghtailing (W.), known to me to be the person described in and who executed the foregoing instrument who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

[Seal]

WILLIAM SAVIDGE,

Notary Public, First Judicial Circuit, Territory of Hawaii.

Entered of record this 2d day of July, A. D. 1910, at 9:18 A. M., and compared.

CHAS. H. MERRIAM,

Registrar of Conveyances. [361]

[Endorsements]: Circuit Court, First Circuit, Territory of Hawaii. Rebecca Houghtailing, vs. George De La Nux, Jr., and Daniel De La Nux. Bill of Complaint. E. No. 2090. Plaintiff's Exhibit "M." Filed Jun. 23, '19. Claus L. Roberts, Clerk. A. D. Larnach and R. W. Breckons, Attorneys for Plaintiff.

No. 1220. Rec'd and Filed in the Supreme Court, Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker, Jr., Assistant Clerk. [362]

**Defendants' Exhibit No. 1.**

E. No. 2090. Defendant's Exhibit One. Filed  
Jun. 17, '19. Claus L. Roberts, Clerk.

April 3d, 1917.

Mr. Breckons

Dear Sir

I wish to take this means of informing you that I have no further business with you or to act for me in any legal matters whatsoever. If I am correctly informed you have been paid for your services and also you have done nothing more that I know of. So you will understand that I do not want your services any longer.

Hoping you will understand my letter

I am sincerely

REBECCA HOUGHTAILING.

Houghtailing. No. 1220. Rec'd and Filed in the  
Supreme Court, Sept. 16, 1919, at 8:55 o'clock A. M.  
Robert Parker, Jr., Assistant Clerk.

[Envelope:]

After 10 days, return to

---

Aiea, Hawaii.

[Stamped:] Aiea Apr 3 5 P. M 1917 H. Isls.

Mr. Breckons

Honolulu

Oahu

E. No. 2090. Defendants' Exhibit One. Filed  
Jun. 17, '19. Claus L. Roberts, Clerk. [363]

No. 1220. Rec'd and Filed in the Supreme Court,

Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker, Jr., Assistant Clerk.

---

**Defendants' Exhibit No. 2.**

KNOW ALL MEN BY THESE PRESENTS that I, REBECCA HOUGHTAILING, of Honolulu, City and County of Honolulu, Territory of Hawaii do hereby make, constitute and appoint G. F. De La NUX of Honolulu, aforesaid my true and lawful attorney for me and in my name, place and stead to demand, ask for, receive, and receipt for all money or monies which may be due to me for myself from my Guardian, and to do, act and perform in all things in and about the premises as and in the same manner as I might myself do if personally present.

HEREBY ratifying and confirming all that my said attorney in fact may do in and about the premises.

IN WITNESS WHEREOF I have hereto set my hand this fourteenth day of February, A. D. 1917.

REBECCA HOUGHTAILING.

Territory of Hawaii,  
City and County of Honolulu,—ss.

On this fourteenth day of February, 1917, personally appeared before me Rebecca Houghtailing (widow), to me known and known by me to be the person described in and who executed the foregoing instrument, who acknowledged to me that she executed the same freely and voluntarily and for the uses and purposes therein set forth.

[Seal]

WM. L. WHITNEY,  
2d Judge First Circuit Court,



[Endorsements]: E. No. 2090. Defendants' Exhibit Two. Filed Jun. 17, '19. Claus L. Roberts, Clerk.

No. 1220. Rec'd and Filed in the Supreme Court, Sept. 16, 1919, at 8:55 o'clock A. M. Robert Parker, Jr., Assistant Clerk. [364]

---

In the Supreme Court of the Territory of Hawaii.

BILL FOR REFORMATION OF DEED.

No. 1220.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Plaintiff-Appellee,

vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX, and  
LAHAPA DE LA NUX,  
Defendants-Appellants.

**Stipulation that Motion to Dismiss Appeal be  
Granted on Grounds Alleged in Motion.**

IT IS HEREBY STIPULATED that the motion to dismiss defendants-appellants' appeal may be granted on the grounds alleged in said motion; that the parties stipulate that the record herein may be considered by the Court as if a writ of error had been sued out by the defendants-appellants forthwith after the dismissal of said appeal; and it is further stipulated that any questions of law that are open on such writ of error and said record may be considered

and decided by the Supreme Court.

The plaintiff-appellee reserves the right to object to the consideration of this reservation on the legal ground that a writ of error will not lie in the same cause after the dismissal of an appeal as heretofore stipulated, and if such objection would have caused a writ of error to be dismissed in the within cause, then all the defendants-appellants' questions of law shall be overruled.

ANDREWS & PITTMAN,  
W. B. P.

Attorneys for the Defendants-Appellants.

A. D. LARNACH,  
CASTLE & WITHINGTON,  
Attorneys for Plaintiff-Appellee.

The within stipulation is hereby approved.

S. B. KEMP,  
Associate Justice of the Supreme Court. [365]

[Endorsement]: Original. No. 1220. Circuit Court, First Circuit, Territory of Hawaii. Rebecca Houghtailing, Pltff.-Appellee, vs. George De La Nux, Jr. et al., Defdts.-Appellants. Stipulation. Rec'd and filed in the Supreme Court Oct. 2, 1919, at 9:55 o'clock A. M. Robert Parker, Jr., Assistant Clerk. Castle & Withington, Attys. for Pltff.-Appellee. [366]

In the Supreme Court of the Territory of Hawaii.

October Term, 1919.

APPEAL FROM CIRCUIT JUDGE, FIRST  
CIRCUIT.

No. 1220.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX and  
LAHAPA DE LA NUX.

**Order Granting Motion to Dismiss Appeal and  
Dismissing Appeal.**

The parties in the above-entitled cause by their respective attorneys having on the 2d day of October, 1919, filed their stipulation wherein they agree among other things that the motion heretofore filed herein by the petitioner to dismiss the appeal of respondents be granted, and said stipulation having been submitted to the Court on the 6th day of October, 1919;

NOW, THEREFORE, in pursuance of said stipulation it is hereby ordered that the said motion by the petitioner to dismiss the appeal of respondents in the above-entitled cause be and the same is hereby granted, and the appeal herein dismissed.

Dated, Honolulu, T. H., October 13, 1919.

By the Court:

[Seal]

J. A. THOMPSON,  
Clerk Supreme Court.

O. K.—KEMP.

[Endorsement]: No. 1220. Supreme Court, Territory of Hawaii. October Term, 1919. Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, vs. George De La Nux, Jr., et al. (Original.) Order Granting Motion to Dismiss Appeal and Dismissing Appeal. Filed October 13, 1919, at 11:30 A. M. J. A. Thompson, Clerk. [367]

---

In the Supreme Court of the Territory of Hawaii.  
October Term, 1919.

No. 1220.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,

vs.

GEORGE DE LA NUX, JR., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX and  
LAHAPA DE LA NUX.

**Opinion.**

ERROR TO CIRCUIT JUDGE FIRST CIRCUIT.

HON W. H. HEEN, JUDGE.

Argued April 20, 1920. Decided May 5, 1920.

COKE, C. J., KEMP and EDINGS, JJ.

Appeal and Error.

By the provisions of section 2522, R. L. 1915, as amended by Act 44 S. L. 1919, this court is precluded, on a writ of error, from reversing any finding depending on the credibility of witnesses or the weight of evidence.

Equity—Laches—Statute of Limitations.

The question of laches does not depend, as does the statute of limitations, upon the fact that a certain definite time has elapsed since the cause of action accrued, but whether under all the circumstances of the particular case complainant is chargeable with a want of due diligence in failing to institute suit before she did.

Appeal and Error—Sufficiency of Bill—Point Waived When not Seasonably Made.

A question not jurisdictional and which was not raised by demurrer nor in appellants' specifications of error nor in their brief comes too late to have consideration when presented for the first time during the oral argument of counsel.  
[368]

Opinion of the Court by COKE, C. J.

This is a suit in equity instituted by Rebecca Houghtailing, complainant-appellee, through Frederick E. Steere, her guardian, against George De La Nux, Jr., and Daniel De La Nux, respondents-appellants, to reform a deed. The deed in question purports to convey to the grantees therein named a certain piece of land situated on Kamehameha IV road, Kalihi, Oahu, with the improvements thereon, which property was at the time, and still is, occupied by the grantor as a home. There is a separate clause in the deed reading as follows: "And also all and singular my real and personal property by me possessed and wheresoever situate." It is this last clause which the appellee alleges was inserted in the deed through the fraud and deception of George F. De La Nux, the

father of the grantees, and which appellee now seeks to have eliminated from the deed by reformation thereof. By the terms of the deed the appellee reserved to herself a life estate in all the property conveyed. The grantees were minors at the time the suit was instituted, and their father, George F. De La Nux, was duly appointed their guardian *ad litem*. On the 1st day of December, 1918, George De La Nux, Jr., died, and the bill was amended by making George F. De La Nux and Lahapa De La Nux, father and mother, respectively, of the deceased grantee and his heirs at law, parties defendant. It appears that on the 11th day of April, 1916, Rebecca Houghtailing was declared a spendthrift owing to the use of intoxicating liquor and Frederick E. Steere was appointed the guardian of her person and estate. On the 19th day of April, 1917, the said guardian was ordered and directed by the judge of the probate court of the first judicial circuit to institute proceedings to bring about a reformation of the deed in accordance with the prayer of the bill filed herein, and on the 24th day of May, 1917, [369] suit was filed. The deed purports to have been signed by Rebecca Houghtailing on the 10th day of June, 1905, and acknowledged by her before a notary public on the 8th day of November, 1905. It was recorded in the office of the registrar of conveyances in Honolulu on the 2d day of July, 1910. The clause in the deed to which objection is made by appellee affects extensive and valuable real and personal property and it is alleged in the bill "That the insertion of the said provision in said deed conveying property other than

the said homestead was without the consent or knowledge, and was against the will of the said Rebecca Houghtailing, and was at the instigation, suggestion and connivance of the said George F. De La Nux, and was inserted therein with intent on the part of him, the said George F. De La Nux to deceive and defraud the said Rebecca Houghtailing, and with the intent on the part of him, the said George F. De La Nux, to have the said deed executed at a time when her condition, owing to the excessive use of intoxicating liquors, combined with her lack of knowledge of business and business affairs, would not permit her to appreciate the full force and effect of the instrument so to be executed by her; and that said instrument was executed at a time when the said Rebecca Houghtailing was under the influence of intoxicating liquors, and that in having the same executed at the said time, the said George F. De La Nux did intend to deceive and defraud the said Rebecca Houghtailing and did deceive and defraud her.”

At the conclusion of the trial a decision was rendered by the Judge of the trial court wherein the evidence is extensively reviewed and it was found that Rebecca Houghtailing was at the time the deed in dispute was executed a person addicted to the extensive use of intoxicating liquor; that because of her habitual intemperance she was unable to attend to business affairs and for that reason was obliged to have others undertake the management of her [370] large estate; that also because of such habitual intemperance she was easily influenced by her son George; that she was deceived and defrauded by him

by being made to believe that the deed conveyed only the Kalihi home; that she succumbed to such deception and fraud because of the trust and confidence that she placed in her son George, and that the deed in question should be reformed by striking therefrom the words "and also all and singular my real and personal property by me possessed and wheresoever situate." A decree in accordance with the findings contained in the decision was made and entered.

The cause is brought here on error by the appellants. The errors relied upon as contained in appellants' opening brief are as follows: (1) That the Trial Judge erred in causing the said deed to be reformed on the ground of fraud and deception; (2) that the Trial Judge erred in deciding from the evidence that plaintiff was deceived and defrauded by George F. De La Nux and that by reason of such deception and fraud signed the deed in question; (3) that the Trial Judge erred in not dismissing the complaint on the ground of laches on the part of the plaintiff; (4) that the Trial Judge erred in not dismissing the complaint on the ground that said complaint did not contain the necessary and essential allegations to maintain this suit.

Specifications of error Nos. 1 and 2 present matters which necessarily depend upon the credibility of witnesses and the weight of evidence. There was evidence which affirmatively shows that Rebecca Houghtailing is an Hawaiian woman about fifty-six years of age; that she is without knowledge of business affairs and is, and for many years has been, unable to manage her estate; that for more than twenty



years last past she has been addicted to the excessive use of alcoholic liquors; that although she has other children and numerous grandchildren, some at least of [371] whom appear to have a greater claim to her affections and bounty than the two grantees named in the deed; that it was her intention and purpose to grant to the children of her son George her home situated on Kamehameha IV road, but that in the preparation of the deed George took advantage of her mental weakness and by fraud and deceit and without her knowledge or consent caused to be inserted in the deed the clause now complained of and which if permitted to stand would upon the death of Rebecca vest her entire estate in George's two children, their heirs or assigns. It is true this evidence was controverted by the testimony of witnesses introduced on behalf of the appellants but we are not on a writ of error permitted under section 2522, R. L. 1915, as amended by Act 44 S. L. 1919, to reverse the decree for any finding depending on the credibility of witnesses or the weight of evidence.

The third assignment presents as error the failure of the Trial Judge to dismiss the complaint on the ground of laches on the part of complainant. In this connection counsel for respondents argue that this is in fact a real action to recover possession of land and therefore the statute of limitations (Sec. 2651, R. L. 1915) applies. The section reads: "No person shall commence an action to recover possession of any lands, or make any entry thereon, unless within ten years after the right to bring such action first accrued."

But this is not an action to recover the possession of land but is a suit in equity to reform a deed. The complainant has at all times been, and still is, in possession of the property. The position of the parties has not changed since the date of the execution of the deed and of course no rights of third parties have intervened. We are of the opinion that the statute of limitations cannot be invoked to defeat the suit. [372]

In *Rose v. Parker*, 4 Haw. 593, this Court said: "It is urged that the plaintiffs are barred of this recovery by the statute of limitations. We understand that courts of equity not only act in obedience and in analogy to the statute of limitations in proper cases, but they also interfere in many cases to prevent the bar of the statute where it would be inequitable or unjust." This same question was before the Supreme Court of the United States in *Townsend v. Vanderwerker*, 160 U. S. 171. The Court in that case laid down the rule to be that "The question of laches does not depend, as does the statute of limitations, upon the fact that a certain definite time has elapsed since the cause of action accrued, but whether, under all the circumstances of the particular case, plaintiff is chargeable with a want of due diligence in failing to institute proceedings before he did." See, also, *Gunton v. Carroll*, 101 U. S. 426; *Harris v. Ivey*, 21 So. 422; *Jones v. McNealy*, 35 So. 1022.

The fourth assignment of error presents a general attack upon the entire bill for the reason that it does not contain the necessary allegations to maintain the suit. No particular defect in the bill is pointed out

and we are left to grope through the pleadings seeking as best we may for defects therein. Obviously these are matters which should have been taken advantage of on demurrer. The bill may not be a model of good pleading. It perhaps should have contained an averment specifying the time at which Rebecca discovered the fraud and a further averment in explanation of her failure to promptly seek relief against the fraud which she claims was perpetrated upon her. But in the absence of a demurrer the cause went to trial upon the bill and answers and whatever defects the bill contained were cured by the proofs submitted at the trial. It is in evidence that Mrs. Houghtailing became aware [373] of the fraud in 1911 but it was also shown that at that time and during the intervening period up to the date of the appointment of Mr. Steere as her guardian her mental condition was such as would excuse her inaction. In other words, all apparent laches were accounted for. Very shortly following Mr. Steere's appointment this suit was instituted.

In their oral argument before us counsel for appellants for the first time attempt to urge that there was no proper allegation or showing of a demand upon the appellants for the reformation of the deed prior to the institution of the suit. The record does show that there was a demand upon George F. De La Nux, the father of the grantees. But without determining whether a demand was necessary as a prerequisite to the suit, or if such demand was necessary whether the demand upon the natural guardian was sufficient, the point was not contained in the specifications of error

nor is it given the slightest mention in the briefs of appellants. It is not a jurisdictional question and comes too late to have consideration when presented for the first time during the oral argument of counsel.

The record herein presents a clear case where a confiding woman whose mind has been enfeebled by the excessive use of alcoholic liquor was by fraud, deceit and misrepresentation induced by her son to execute a deed to his children of all of her large estate to the exclusion of her other children and numerous grandchildren. The facts and circumstances divulged convinces us, as they convinced the Judge of the lower court, that Mrs. Houghtailing never had in mind the conveyance of any property other than her house and lot situated on Kamehameha IV road.

The decree appealed from ought to be, and therefore is, affirmed.

JAMES L. COKE.

S. B. KEMP.

W. S. EDINGS.

A. WITHINGTON and A. D. LARNACH (CASTLE & WITHINGTON and A. D. LARNACH on the Brief), for Complainant.

R. J. O'BRIEN (ANDREWS & PITTMAN and E. J. BOTTS on the Brief), for Respondents.

[374]

[Endorsement]: No. 1220. Supreme Court, Territory of Hawaii. October Term, 1919. Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, vs. George De La Nux, Jr., Daniel De La Nux, George F. De La Nux and Lahapa De La

Nux. Opinion. Filed May 5, 1920, at 11:18 A. M.  
J. A. Thompson, Clerk. [375]

---

In the Supreme Court of the Territory of Hawaii,  
October Term.

ERROR TO CIRCUIT JUDGE, FIRST  
CIRCUIT.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX and LA-  
HAPA DE LA NUX.

**Decree.**

In the above-entitled cause, pursuant to the opin-  
ion of the above-entitled court filed May 5, 1920, the  
decree appealed from is affirmed.

Dated, Honolulu, T. H., May 13th, 1920.

By the Court:

[Seal]

J. A. THOMPSON,  
Clerk Supreme Court.

O.K.—COKE, C. J.

[Endorsement]: No. 1220. Supreme Court, Ter-  
ritory of Hawaii. October Term, 1919. Rebecca  
Houghtailing, Through and by Frederick E. Steere,  
Her Guardian, vs. George De La Nux, Jr., Daniel De  
La Nux, George F. De La Nux and Lahapa De La  
Nux. Decree. Filed May 13, 1920, at 10:50 A. M.  
J. A. Thompson, Clerk. [376]

In the Supreme Court, Territory of Hawaii.

CLERK'S MINUTES.

Vol. VI, Page 60.

Monday, October 6, 1919.

Court convened at 10:00 o'clock A. M.

October Term, 1919. October Session, 1919.

Present on the Bench: Hon. SAMUEL B. KEMP  
and Hon. WILLIAM S. EDINGS, JJ., and  
Hon. JAMES J. BANKS, Third Judge, Circuit  
Court, First Circuit, Sitting in the Place of  
Chief Justice JAMES L. COKE, Absent from  
the Territory.

APPEAL FROM CIRCUIT JUDGE, FIRST  
CIRCUIT.

Vol. VI, Page 64.

REBECCA HOUGHTAILING, by and

<sup>1220</sup>  
To Page 168. Through FREDERICK E. STEERE, Her  
Guardian,

vs.

GEORGE DE LA NUX, Jr., et al.

Present: A. WITHINGTON, for Complainant.

**Minutes of Court—October 6, 1919—Order  
Dismissing Appeal.**

The parties in the above-entitled cause having on the 2d day of October, 1919, filed herein their stipulation wherein they agreed that the appeal herein be dismissed; now on this day, the Court ordered that the appeal taken in the above cause be dismissed, and

the Court further ordered that the record remain in the case in accordance with the stipulation of counsel.

Vol. VI, Page 168.

Tuesday, April 20, 1920.

Court convened at 10:00 o'clock A. M.

Present: Hon JAMES L. COKE, C. J., Hon. SAMUEL B. KEMP and Hon. WILLIAM S. EDINGS, JJ.

ERROR TO CIRCUIT JUDGE, FIRST  
CIRCUIT.

REBECCA HOUGHTAILING, Through  
and by FREDERICK E. STEERE, Her  
Guardian,

vs.

GEORGE DE LA NUX, Jr., DANIEL DE  
LA NUX, GEORGE F. DE LA NUX and  
LAHAPA DE LA NUX. [377]

**Minutes of Court—April 20, 1920—Hearing.**

Appearances:

- A. WITHINGTON, of the Firm of ROBERTSON, CASTLE & OLSON, and A. D. LARNACH, for Complainant-Appellee.
- W. B. PITTMAN and R. J. O'BRIEN, of the Firm of ANDREWS, PITTMAN & O'BRIEN, for Respondents-Appellants.

The above-entitled case having been ordered set for this day for hearing, when said case was reached and was called at 11:16 A. M., Mr. Pittman opened to the Court and proceeded to read the stipulation of counsel filed October 2, 1919, relative to the record herein,

and then followed with a brief remark thereon.

Mr. Withington addressed the Court briefly on the stipulation.

The Court stated that the matter of the stipulation will be disposed of with the case.

At 11:23 A. M. O'Brien proceeded to state the case and then followed with his argument concluding at 11:49 A. M.

At 11:50 A. M. Mr. Withington commenced with his argument and continuing until 12:00 o'clock noon, when the court took a recess until 2 o'clock this afternoon.

Case continued until 2:00 o'clock this afternoon.

#### AFTERNOON SESSION.

Court reconvened at 2:00 o'clock P. M.

Present: Hon. JAMES L. COKE, C. J., Hon. SAMUEL B. KEMP and Hon. WILLIAM S. EDINGS, JJ.

#### ERROR TO CIRCUIT JUDGE, FIRST CIRCUIT.

REBECCA HOUGHTAILING, Through  
 and by FREDERICK E. STEERE, Her  
 Guardian,

1220  
 From Page  
 168, To Page  
 177.

vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA NUX, GEORGE F. DE LA NUX and LAHAPA DE LA NUX.



Appearances:

A. WITHINGTON, of the Firm of ROBERTSON, CASTLE & OLSON, and A. D. LARNACH, for Complainant-Appellee.

R. J. O'BRIEN, of the Firm of ANDREWS, PITTMAN & O'BRIEN, for Respondents-Appellants.

When the Court reconvened and the above-entitled case was called Mr. Withington resumed with his argument, concluding at 2:14 P. M., and he was followed by Mr. Larnach, who concluded at 2:30 P. M. [378]

Mr. O'Brien replied concluding at 2:49 P. M.

Case submitted and taken under advisement.

Vol. VI, Page 177.

Wednesday, May 5, 1920.

ERROR TO CIRCUIT JUDGE, FIRST  
CIRCUIT.

REBECCA HOUGHTAILING, Through  
and by FREDERICK E. STEERE, Her  
Guardian,

vs.

GEORGE DE LA NUX, Jr., DANIEL DE  
LA NUX, GEORGE F. DE LA NUX and  
LAHAPA DE LA NUX.

**Minutes of Court—May 5, 1920—Hearing  
(Resumed).**

At 11:18 o'clock A. M. this day the Court handed

down its written opinion in the above-entitled case affirming the decree appealed from.

J. A. THOMPSON,

Clerk. [379]

---

In the Supreme Court of the Territory of Hawaii.

October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX

and LAHAPA DE LA NUX,

Plaintiffs in Error,

vs.

REBECCA HOUGHTAILING, Through and by

FREDERICK E. STEERE, Her Guardian,

Defendant in Error.

**Petition for Writ of Error and Supersedeas Returnable to United States Circuit Court of Appeals for the Ninth Circuit.**

To the Honorable the Chief Justice of the Supreme Court of the Territory of Hawaii:

Daniel De La Nux, George F. De La Nux and Lahapa De La Nux, plaintiffs in error in the above-entitled cause, deeming themselves aggrieved by the judgment of the Supreme Court of the Territory of Hawaii entered and filed on the 13th day of May, 1920, in the above-entitled cause, entitled "Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, vs. George De La Nux, Jr., Daniel De La Nux, George F. De La Nux and Lahapa De La Nux," come now by Andrews, Pittman & O'Brien, their attorneys, and hereby humbly petition said

Supreme Court of the Territory of Hawaii for an order allowing said plaintiffs in error to prosecute a writ of error and have the same allowed from the United States Circuit Court of Appeals for the Ninth [380] Circuit to said Supreme Court of the Territory of Hawaii under and according to the laws of the United States in that behalf made and provided, and that a transcript of the record, proceedings and documentary exhibits upon which said judgment was made, duly authenticated, may be sent to said United States Circuit Court of Appeals for the Ninth Circuit; and also that an order may be made by this Honorable Court fixing the amount of the bond which the said plaintiffs in error shall give and furnish upon the said writ of error, and that upon the filing of such bond, all proceedings in and relating to the subject matter in and of the said cause in the said Supreme Court of the Territory of Hawaii and in the Circuit Court of the First Judicial Circuit of the Territory of Hawaii, whether direct or ancillary thereto, be suspended and stayed until the determination of such writ of error by the said United States Circuit Court of Appeals for the Ninth Circuit.

And in this behalf your petitioners show that the said judgment was rendered in an action at law and that the amount involved in said action, exclusive of costs, exceeds the value of \$5,000.00.

WHEREFORE, your petitioners pray that a writ of error may issue out of this court to the end that the errors existing in the record may be corrected and the said judgment reversed, and judgment given to

the said plaintiffs in error and full and complete justice may be done in the premises.

Dated: Honolulu, T. H., June 10, 1920.

DANIEL DE LA NUX,  
 GEORGE F. DE LA NUX,  
 LAHAPA DE LA NUX,  
 Petitioners.

By ANDREWS, PITTMAN & O'BRIEN,  
 Their Attorneys. [381]

Territory of Hawaii,  
 City and County of Honolulu,—ss.

George F. De La Nux, being first duly sworn, deposes and says: That he is one of the plaintiffs in error in the above-entitled cause and is well acquainted with the matters in controversy in said cause, and that the amount involved in the said cause, exclusive of costs, exceeds the value of \$5,000.00.

GEORGE F. DE LA NUX.

Subscribed and sworn to before me this 10th day of June, 1920.

[Notarial Seal] MINA D. CAIN,  
 Notary Public, First Judicial Circuit, Territory  
 of Hawaii.

[Endorsement]: No. 1220. Supreme Court, Territory of Hawaii. Daniel De La Nux, et al., Plaintiffs in Error, vs. Rebecca Houghtailing, etc., Defendant in Error. Petition for Writ of Error and Supersedeas Returnable to U. S. Circuit Court of Appeals for the Ninth Circuit. Filed June 12th, 1920, at 10 minutes past 10:00 o'clock A. M. J. A. Thompson, Clerk. Andrews, Pittman & O'Brien, 37 Mer-

chant Street, Honolulu, T. H., Attorneys for Plaintiffs in Error. [382]

---

In the Supreme Court of the Territory of Hawaii.

October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX  
and LAHAPA DE LA NUX,

Plaintiffs in Error,

vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,

Defendant in Error.

**Assignments of Error on Return to Writ of Error  
Returnable to United States Circuit Court of  
Appeals for the Ninth Circuit.**

Now come Daniel De La Nux, George F. De La Nux and Lahapa De La Nux, plaintiffs in error in the above-entitled cause, by Andrews, Pittman & O'Brien, their attorneys, and say that in the record and proceedings in the above-entitled cause in the Supreme Court of the Territory of Hawaii, and in the rendition of its final judgment therein, there are, and have intervened, manifest errors prejudicial to the said plaintiffs in error, to wit:

I.

That the said Supreme Court erred in affirming the judgment of the Circuit Court of the First Judicial Circuit of the Territory of Hawaii in said cause.

II.

That the said Supreme Court erred in not reversing

the said judgment of said Circuit Court and in deciding that [383] judgment should not be rendered in favor of the said plaintiffs in error and dismissing the bill of defendant in error.

### III.

That the said Supreme Court erred in holding that a certain deed dated June 10, 1905, offered in evidence at the trial of said cause and marked Exhibit "F," should be reformed on the grounds of fraud and deception.

### IV.

That the said Supreme Court erred in alleging that Rebecca Houghtailing was deceived and defrauded by George F. De La Nux and that by reason of such deception and fraud signed said deed marked Exhibit "F."

### V.

That the said Supreme Court erred in sustaining the trial Judge in not dismissing the complaint on the ground of laches of which Rebecca Houghtailing, plaintiff, was guilty.

### VI.

That the said Supreme Court erred in not rendering judgment for the plaintiffs in error on the ground that the complaint did not contain the necessary and essential allegations to maintain this suit.

### VII.

That the said Supreme Court erred in not rendering judgment for the plaintiffs in error on the ground that the complaint failed to allege a demand and the proof failed to show a demand, upon the minor defendants.

VIII.

That the said Supreme Court erred in not rendering judgment for the plaintiffs in error on the ground that the [384] Circuit Court of the First Judicial Circuit failed to find upon the issues raised in pleading, to wit, the statute of limitations.

WHEREFORE the said plaintiffs in error pray that the errors aforesaid, and other errors appearing in the record of said Supreme Court in the said cause to the prejudice of the plaintiffs in error, the judgment of said Supreme Court be reversed, annulled and for naught esteemed, and that the said Supreme Court be ordered to reverse the said judgment entered in said Circuit Court and to order the said Circuit Court to enter judgment in favor of the plaintiffs in error as by them prayed, dismissing said complaint of the defendant in error, and for such other relief as may be just and proper in the premises, to the end that justice may be done in the premises.

Dated: Honolulu, T. H., June 10, 1920.

DANIEL DE LA NUX.

GEORGE DE LA NUX.

LAHAPA DE LA NUX.

Plaintiffs in Error.

By ANDREWS, PITTMAN & O'BRIEN,

Their Attorneys.

Service of a copy of the foregoing Assignments of Error is hereby acknowledged.

ALEXANDER D. LARNACH,

ROBERTSON, CASTLE & OLSON,

Attorneys for Defendant in Error.

[Endorsed]: No. 1220. Supreme Court, Territory of Hawaii. Daniel De La Nux, et al., Plaintiffs in Error, vs. Rebecca Houghtailing, etc., Defendant in Error. Assignments of Error on Return to Writ of Error Returnable to U. S. Circuit Court of Appeals, for the Ninth Circuit. Filed June, 12, 1920, at 10 minutes past 10:00 o'clock A. M. and issued for service. J. M. Thompson, Clerk.

Returned June 14, 1920, at 9:30 A. M. J. M. Thompson, Clerk.

---

In the Supreme Court of the Territory of Hawaii.  
October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX  
and LAHAPA DE LA NUX,  
Plaintiffs in Error,  
vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

**Order Allowing Writ of Error Returnable to  
United States Circuit Court of Appeals and  
Supersedeas.**

Upon reading and filing the foregoing petition for a writ of error, together with the assignment of errors presented therewith, alleged to have occurred in the judgment of this court and in the proceedings in the trial of said cause prior thereto,—

IT IS ORDERED that a writ of error be and the same is hereby allowed to the said Daniel De La



Nux, George F. De La Nux and Lahapa De La Nux, to have reviewed by the United States Circuit Court of Appeals for the Ninth Circuit, the judgment heretofore entered in the above-entitled cause and the proceedings in the trial of said cause prior thereto, and that the amount of bond on said writ of error be, and the same is hereby fixed in the sum of Five Hundred Dollars (\$500.00); and that upon the filing of said above-named plaintiffs in error of an approved bond in said amount, all further proceedings in said cause in the said Supreme Court of the Territory of Hawaii and the Circuit Court of the First [387] Judicial Circuit of the Territory of Hawaii, shall be stayed and suspended until the determination of such writ of error by the said United States Circuit Court of Appeals for the Ninth Circuit.

Dated Honolulu, T. H., June 12th, 1920.

[Seal]

JAMES L. COKE,

Chief Justice of the Supreme Court of the Territory of Hawaii.

[Endorsement]: No. 1220. Supreme Court, Territory of Hawaii. Daniel De La Nux et al., Plaintiffs in Error, vs. Rebecca Houghtailing, etc., Defendant in Error. Order Allowing Writ of Error Returnable to U. S. Circuit Court of Appeals, and Supersedeas. Filed June 12, 1920, at 10 minutes past 10:00 o'clock A. M. J. A. Thompson, Clerk. Andrews, Pittman & O'Brien, 37 Merchant Street, Honolulu, T. H., Attorneys for Plaintiff in Error. [388]

In the Supreme Court of the Territory of Hawaii.

October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX  
and LAHAPA DE LA NUX,

Plaintiffs in Error,

vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

**Supersedeas and Cost Bond on Writ of Error  
Returnable to United States Circuit Court of  
Appeals.**

KNOW ALL MEN BY THESE PRESENTS:  
That we, Daniel De La Nux, George De La Nux and  
Lahapa De La Nux, as principals, and Frank E.  
Richardson and D. F. Nicholson, as sureties, are held  
and firmly bound unto Rebecca Houghtailing,  
through and by Frederick E. Steere, her guardian,  
in the sum of Five Hundred Dollars (\$500.00), to  
the payment whereof well and truly to be made, we  
do hereby jointly and severally firmly bind ourselves  
and our respective heirs, successors, executors and  
administrators.

THE CONDITION of this obligation is as fol-  
lows:

WHEREAS, in an action heretofore pending in  
and before the Supreme Court of the Territory of  
Hawaii wherein said bounden principals were de-  
fendants, and obligee was plaintiff, the said Su-  
preme Court did, on the 13th day of May, 1920, order,

render and enter a judgment of the Supreme Court wherein and whereby there was and is affirmed a certain judgment theretofore, to wit, on the 30th day of June, 1919, rendered and entered in and by the Circuit Court of the First Judicial Circuit of said Territory, in a cause wherein said [389] bounden principals were defendants, and said obligee was plaintiff, and which said judgment was in favor of said plaintiff.

AND WHEREAS, said bounden principals have applied for and are about to sue out a writ of error from the United States Circuit Court of Appeals for the Ninth Circuit to said Supreme Court of the Territory of Hawaii to the end that the judgment of the said Supreme Court, above described, may be reviewed by said United States Circuit Court of Appeals for the Ninth Circuit, and have taken or are about to take such other and further proceedings as may be necessary to obtain a review by the said United States Circuit Court of Appeals for the Ninth Circuit of the judgment last aforesaid;

NOW, THEREFORE, if the said bounden principals shall prosecute said writ of error to effect and shall answer all damages and costs if they fail to make their plea good, then the above obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the above-bounden principals and sureties have heretofore set their

hands and seals this 10th day of June, 1920.

DANIEL DE LA NUX,  
By GEORGE F. DE LA NUX,  
His Guardian.

GEORGE F. DE LA NUX,  
LAHAPA DE LA NUX,  
Principals.

D. F. NICHOLSON,  
FRANK E. RICHARDSON,  
Sureties. [390]

Territory of Hawaii,

City and County of Honolulu,—ss.

Frank E. Richardson and D. F. Nicholson, being first duly sworn, upon oath, each for himself, and not one for the other, deposes and says:

I am one of the sureties named in and who subscribed to the within and foregoing bond; I am a resident of the City and County of Honolulu, Territory of Hawaii, and a property holder in said Territory of Hawaii; I am worth in property within the Territory of Hawaii, subject to execution, the sum of One Thousand Dollars (\$1,000.00) over and above all my just debts and liabilities.

D. F. NICHOLSON.

FRANK E. RICHARDSON.

Subscribed and sworn to before me this 10th day of June, 1920.

[Notarial Seal] MINA D. CAIN,  
Notary Public, First Judicial Circuit, Territory of  
Hawaii.

The foregoing bond is hereby approved as to form and sufficiency, this 12th day of June, 1920.

[Seal] JAMES L. COKE,  
Chief Justice of the Supreme Court, Territory of  
Hawaii.

[Endorsement]: No. 1220. Supreme Court, Territory of Hawaii. Daniel De La Nux et al., Plaintiffs in Error, vs. Rebecca Houghtailing, etc., Defendant in Error. Supersedeas and Cost Bond on Writ of Error. Filed June 12, 1920, at 10 minutes past 10:00 o'clock A. M. J. A. Thompson, Clerk. Andrews, Pittman & O'Brien, 37 Merchant Street, Honolulu, T. H., Attorneys for Plaintiffs in Error.  
[391]

---

In the Supreme Court of the Territory of Hawaii.  
October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX  
and LAHAPA DE LA NUX,  
Plaintiffs in Error,  
vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

**Writ of Error to the Supreme Court of the  
Territory of Hawaii.**

The United States of America,—ss.

The President of the United States to the Honorable Justices of the Supreme Court of the Territory of Hawaii, GREETING:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Supreme Court of the Territory of Hawaii, before you, or some of you, between Rebecca Hough-tailing, through and by Frederick E. Steere, her guardian, plaintiff, now defendant in error, and Daniel De La Nux, George F. De La Nux and Lahapa De La Nux, defendants, now plaintiffs in error, hath happened to the great damage of plain-tiffs in error, as by their complaint appears:

We being willing that error, if any there hath been, shall be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of [392] Appeals for the Ninth Circuit, together with this writ, so that you have the same in said United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California, within thirty (30) days from the date hereof, that the record and proceedings aforesaid being in-spected, the said United States Circuit Court of Ap-peals for the Ninth Circuit may cause further to be done therein to correct that error, what of right, ac-cording to the laws and customs of the United States, should be done.

WITNESS, the Honorable EDWARD DOUG-LASS WHITE, Chief Justice of the United States,

this 12th day of June, 1920.

[Seal] J. A. THOMPSON,  
Clerk of the Supreme Court of the Territory of  
Hawaii.

The foregoing is hereby allowed this 12th day of  
June, 1920.

JAMES L. COKE,  
Chief Justice of the Supreme Court of the Territory  
of Hawaii.

Service of a copy of the foregoing Writ of Error  
is hereby acknowledged.

ALEXANDER D. LARNACH,  
ROBERTSON, CASTLE & OLSON,  
Attorneys for Defendant in Error. [393]

[Endorsed]: No. 1220. Supreme Court, Terri-  
tory of Hawaii. Daniel De La Nux et al., Plaintiffs  
in Error, vs. Rebecca Houghtailing, etc., Defendant  
in Error. Writ of Error to the Supreme Court of  
the Territory of Hawaii. Filed June 12, 1920, at  
10 minutes past 10:00 o'clock A. M. and issued for  
service. J. A. Thompson, Clerk.

Returned June 14, 1920, at 9:30 A. M. J. A.  
Thompson, Clerk. [394]

In the Supreme Court of the Territory of Hawaii.

October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX  
and LAHAPA DE LA NUX,

Plaintiffs in Error,

vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

**Citation on Writ of Error Returnable to United  
States Circuit Court of Appeals.**

The United States of America,—ss.

To Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, GREETING;

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, State of California, within thirty (30) days after the date of this citation, pursuant to a writ of error filed in the clerk's office of the Supreme Court of the Territory of Hawaii, wherein Daniel De La Nux, George F. De La Nux and Lahapa De La Nux are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable EDWARD DOUGLASS WHITE, Chief [395] Justice of the Su-



preme Court of the United States, this 12th day of June, 1920.

JAMES L. COKE,  
Chief Justice, Supreme Court of the Territory of Hawaii.

[Seal]                      Attest: J. A. THOMPSON,  
Clerk, Supreme Court of the Territory of Hawaii.

Due service of the within citation and receipt of copy thereof is hereby admitted this 14th day of June, 1920.

ALEXANDER D. LARNACH,  
ROBERTSON, CASTLE & OLSON,  
Attorneys for Defendant in Error. [396]

[Endorsed]: No. 1220. Supreme Court, Territory of Hawaii. Daniel De La Nux et al., Plaintiffs in Error, vs. Rebecca Houghtailing, etc., Defendant in Error. Citation on Writ of Error Returnable to U. S. Circuit Court of Appeals. Filed June 12, 1920, at 10 minutes past 10:00 o'clock A. M. and Issued for Service. J. A. Thompson, Clerk.

Returned June 14, 1920, at 9:30 A. M. J. A. Thompson, Clerk. [397]

---

In the Supreme Court of the Territory of Hawaii.  
October Term, 1919.

DANIEL DE LA NUX, GEORGE F. DE LA NUX  
and LAHAPA DE LA NUX,

Plaintiffs in Error,

vs.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Defendant in Error.

**Amended Praecept for Transcript of Record on  
Writ of Error Returnable to U. S. Circuit  
Court of Appeals.**

TO JAMES A. THOMPSON, Esq., Clerk of the Supreme Court of the Territory of Hawaii:

You will please prepare a transcript of a record in the above-entitled cause to be filed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit under the writ of error heretofore issued by said Court, and include in said transcript the following pleadings, proceedings, opinions, judgments and papers on file in said cause, to wit:

1. Bill of complaint, filed May 24, 1917, and attached thereto as Exhibit "A" thereof, copy of deed of Rebecca Houghtailing (nee Mrs. P. C. A. De La Nux) to George De La Nux, Jr., and Daniel De La Nux, dated June 10, 1905).
2. Order appointing George F. De La Nux guardian *ad litem* of George De La Nux, Jr., and Daniel De La Nux, filed May 24, 1917.
3. Answer of defendants, filed September 20, 1917.
4. Replication by plaintiff, filed September 26, 1917. [398]
5. Stipulation that defendants need file no answer, but that the answer heretofore filed by George F. De La Nux as guardian *ad litem* of George F. De La Nux, Jr., and Daniel De La Nux, be considered the answer of George F. De La

Nux, and Lahapa De La Nux, etc., filed June 14, 1918.

6. Decision of the Circuit Court of the First Circuit, entered and filed June 30, 1919.
7. Decree of the Circuit Court of the First Circuit, entered and filed June 30, 1919.
8. Transcript of testimony.

PLAINTIFF'S EXHIBITS, viz.:

9. Exhibit "F"—Original deed by Rebecca Houghtailing (nee Mrs. P. C. A. De La Nux) to George F. De La Nux, Jr., and Daniel De La Nux, dated June 10, 1905.
10. Exhibit "I"—Letter dated Aiea, 1/26/16, by Geo. De La Nux to Mr. Schnack.
11. Exhibit "J"—Letter dated Aiea, 1/26/16, by Geo. De La Nux to Dear Mother.
12. Exhibit "K"—Letter dated Feb. 1, 1916, by Geo. F. De La Nux to Mr. Breckons.
13. Exhibit "L"—Unsigned letter dated Honolulu, T. H., Feb. 26, 1916, to Mr. George De La Nux, Aiea, Oahu.
14. Exhibit "M"—Bill of Complaint for reformation of deed, entitled In the Circuit Court of the First Judicial Circuit, Territory of Hawaii, at Chambers, in Equity, "Rebecca Houghtailing, Plaintiff, vs. George De La Nux, Jr., and Daniel De La Nux."

DEFENDANT'S EXHIBITS, viz.:

15. Exhibit "1"—Letter dated April 3, 1917, by Rebecca Houghtailing to Mr. Breckons, with envelope.

16. Exhibit "2"—General Power of Attorney, Rebecca Houghtailing to George F. De La Nux, dated 2/14/17.
17. Stipulation that the motion to dismiss defendants-appellants appeal may be granted, on the grounds alleged in said motion, etc., filed October 2, 1919.
18. Order granting motion to dismiss appeal and dismissing appeal, filed October 13, 1919.
19. Opinion of the Supreme Court of Hawaii, rendered and filed May 5, 1920. (25 Haw. 438—445.)
20. Decree of the Supreme Court of Hawaii, entered and filed May 13, 1920.
21. Minutes of the Clerk of the Supreme Court. [399]
22. Petition for writ of error and supersedeas returnable to U. S. Circuit Court of Appeals, affidavit thereto attached, and order allowing said writ.
23. Assignment of errors.
24. Supersedeas and cost bond on writ of error.
25. Writ of error to Supreme Court of the Territory of Hawaii.
26. Citation, and acknowledgment of service thereon.

You will also annexed to and transmit with the record the original writ of error from the United States Circuit Court of Appeals for the Ninth Circuit, and citation with return of service, your return of the writ of error under the seal of the Supreme Court of the Territory of Hawaii and also your cer-

tificate under seal stating in detail the cost of the record and by whom the same was paid.

Dated: Honolulu, T. H., June 16, 1920.

ANDREWS, PITTMAN & O'BRIEN,

Attorneys for Plaintiffs in Error.

Service of a copy of the foregoing amended praecipe for transcript is hereby acknowledged.

ROBERTSON, CASTLE & OLSON,

Attorneys for Defendant in Error.

[Endorsement]: No. 1220. Supreme Court, Territory of Hawaii. Daniel De La Nux et al., Plaintiffs in Error, vs. Rebecca Houghtailing, etc., Defendant in Error. Amended Praecipe for Transcript of Record. Filed June 16, 1920, at 30 minutes past 3:00 o'clock P. M. J. A. Thompson, Clerk. Andrews, Pittman & O'Brien, 37 Merchant Street, Honolulu, T. H., Attorneys for Plaintiffs in Error. [400]

---

In the Supreme Court of the Territory of Hawaii.

October Term, 1919.

ERROR TO CIRCUIT JUDGE, FIRST CIRCUIT.

No. 1220.

REBECCA HOUGHTAILING, Through and by  
FREDERICK E. STEERE, Her Guardian,  
Complainant,

vs.

GEORGE DE LA NUX, Jr., DANIEL DE LA  
NUX, GEORGE F. DE LA NUX and LA-  
HAPA DE LA NUX,

Respondents.

**Certificate of Clerk of the Supreme Court of the  
Territory of Hawaii to Transcript of Record  
and Return to the Writ of Error.**

Territory of Hawaii,  
City and County of Honolulu,—ss.

I, James A. Thompson, Clerk of the Supreme Court of the Territory of Hawaii, by virtue of the foregoing writ of error and in obedience thereto, the original of which said writ of error is herewith returned, being pages 392 to 394, both inclusive, of the foregoing transcript of record, and in pursuance to the Amended Praecipe to me directed, a copy whereof is hereto attached, being pages 398 to 400, both inclusive, DO HEREBY TRANSMIT to the Honorable United States Circuit Court of Appeals for the Ninth Circuit the foregoing transcript of record, being pages 1 to 382, both inclusive, and pages 387 to 391, both inclusive, AND I DO HEREBY CERTIFY the same to be true, full and correct copies of the pleadings, exhibits, testimony, clerk's minutes, record, proceedings, opinions and decrees which are now on file and of record in the office of the clerk of the Supreme Court of the Territory of Hawaii, in the case entitled "Rebecca Houghtailing, Through and by Frederick E. Steere, Her Guardian, Complainant, versus George De La Nux, Jr., Daniel De La Nux, George F. De La Nux and Lahapa De La Nux, Respondents," Numbered 1220. [401]

I FURTHER CERTIFY that the original assignments of error, with acknowledgment of service thereof, being pages 383 to 386, both inclusive, and



